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AND

BULLETIN OF GOVERNMENT PUBLICATIONS.

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REVOLUTIONARY DIPLOMATIC CORRESPONDENCE.

THERE has been for a long while a good deal of dissatisfaction in official and other quarters over the fact that the diplomatic correspondence of the United States, covering our revolutionary period, had never been correctly and fully published to the world.

The Sparks edition was known to be imperfect, in that it was characterized by many omissions of matter as well as alterations of the text, as a result of the editor's individual views regarding his duty in the preparation of the work. He may have found some sort of justification in the circumstances which he found to exist at the time, but there is only one thing to be done at this period, and that is to give the work publicity in its entirety and perfection.

The compilation of the Revolutionary Diplomatic Correspondence of the United States, by Mr. Francis Wharton, has been completed and printed in six volumes, with notes, historical and legal.

The committee report submitted to the Senate, in February, 1888, recommending the preparation of the work, and which report was adopted, contains the following passages:

"A knowledge of the revolutionary diplomatic correspondence of the United States is essential to the understanding—

"(1.) Of our revolutionary history.

"(2.) Of the treaties executed during and at the close of the Revolution, which form in a large measure the basis of our international law.

"This correspondence is to be found in part in published memoirs, in part in family archives, in part in the records of the Department of State.

"A portion of the latter records was published by Mr. Sparks, under resolution of Congress of March 27, 1818; but in this publication Mr. Sparks omitted letters and parts of letters tending to show—

"(1.) The movement of French politicians in 1776 to supersede Washington by Marshal Broglie.

"(2.) The movement by American politicians in 1776–77 to induce Washington's withdrawal and to have Franklin recalled from Paris.

"(3.) The atrocities of British troops and of refugees in the United States put forward by our diplomatists as a claim against Great Britain and a set-off against British claims for indemnity to loyalists.

"Aside from these systematic omissions, important passages were dropped, showing the extent to which the fisheries, prior to the Revolution, were controlled by American fishermen; and what is still more important, how general was the understanding between the negotiators that the treaty of 1782–83 was a treaty, not of concession by Great Britain, but of partition, under which the United States retained all the territorial rights previously possessed by them in North America when part of the British Empire.

"Mr. Sparks, in eliminating from the correspondence the passages showing the intrigues against Washington, was no doubt governed by his veneration for Washington. But reports of these intrigues came afterwards to the public ear from other sources. While, as thus imperfectly presented, they failed to exhibit (what the full correspondence shows) that unique majesty of Washington, which compelled those who intrigued against him, when they came into his presence and saw him in the solitude of his grandeur, if not to become, as was the case with De Kalb, loyal adherents, at least to sullenly acquiesce in a supremacy they were forced to concede.

"Mr. Sparks' excision of other material, so important to us both in applying history and construing treaties, may be attributed to what we now must consider his wrong conception of the duties of a reproducer of public documents. Now, we feel that in printing such documents we must give them entire, or if we omit, to note the omissions. Mr. Sparks, on the other hand, omitted whatever he thought it was unnecessary or impolitic to print; and he left no sign whatever to show that any omissions had been made. Hence, by leaving out a salient point, the meaning of the document is entirely changed; as, for instance, in Silas Dean's letter of December 6, 1776, a statement that DeKalb goes to America in connection with a suggestion that Broglie be commander-in-chief is turned into a mere letter of introduction by cutting out all that relates to the character of DeKalb's mission.

"No doubt, supposed want of interest was the ground of many of Mr. Sparks' omissions. But the unreliability of such a test is illustrated by the fact that among the passages thus dropped by him, those relating to the fisheries and to the partition feature in the treaty of peace, have become, of all others, the most important in our controversies with Great Britain.

"But Mr. Sparks did not confine himself to omissions. He changed words throughout the correspondence, so as, in innumerable cases, to alter the style, in others to alter the sense."

In addition to the material so industriously gathered by Mr. Sparks, there has been added in this edition a good deal of other matter. Altogether this is a remarkably important work and will quickly be gathered into all important libraries. The work is in 6 vols., octavo; price in cloth, $9.00; sheep, $12.00.

THE LETTERS OF JUNIUS.

AN HISTORIC SECRET.

An event of the first magnitude is, says the *St. James's Gazette*, about to take place in the literary world. Lord Beaconsfield said that there were only two really burning questions: Who wrote the letters of Junius? and Who was the man in the iron mask? The former of the two has at length been satisfactorily cleared up; and the proofs, based on recent-discovered documents, will be published in a volume to be issued shortly by a great old firm, whose name will be a guarantee of the genuineness of the discovery. The public will, of course, guess that this has been made through the mass of manuscripts of Sir Philip Francis, which came into the market some months back. In fact, it is said, the new matter discovered leaves no doubt whatever that Francis was the author of the famous letters. A grandson of Sir Philip is said to be still alive, and to have been a judge in Australia. The little clique of literary Australians assert that he is in some way connected with the book, and are very jubilant at the prospect of Australia once more coming as prominently before English readers as she did a few years since. The first of the letters of Junius appeared more than a century ago, on January 21, 1769. They were published at intervals from 1769 to 1772, when they were collected by Woodfall and revised by their author, whose name not even the publisher ever knew. They were attributed to Sir Philip Francis, Warren Hastings' most bitter enemy, to Lord George Germaine (Sackville), who was dismissed the army for cowardice at Minden, and as Minister was responsible for the repressive measures against the American colonists; to Lord Temple; to the great Burke himself; and at least six or seven others. There are probably few of our readers who are not acquainted with Macaulay's summing-up to prove that Sir Philip Francis was Junius:—"the external evidence is, we think, such as would support a verdict in a civil, nay in a criminal, proceeding. The handwriting of Junius is the very peculiar handwriting of Francis, slightly disguised. As to the position, pursuits, and connections of Junius, there are five marks, all of which ought to be found in Junius. They are all five found in Francis. We do not believe that more than two of them can be found in any other person whatever." In dedicating his collected letters to the English people, their writer said, "I am the sole depositary of my own secret, and it shall perish with me." John Wilkes, writing to Junius in 1771, called it "the most important secret of our times." And so it has remained for a century and a quarter. But it is soon to be a secret no longer.

—YANKEE ingenuity is never caught short for want of a scheme to try on the public. The manufacturers of "———'s Gentle Liver Pills" (Boston) now offer to each purchaser of a box of their gentle engines (price, twenty-five cents) a choice of any one of twenty odd *Excelsior Library of Popular Hand-books*, or similar twenty-five cent volumes of the same publishers. The covers of the books are shown in miniature, and most of the circular is given over to an extolment of their many merits and only a small space to the pills, the manufacturers evidently believing that they will speak for themselves. "Remember, you can not buy these books anywhere for less than twenty-five cents each," say the pill people, so dealers who have them in stock may as well order a supply of "Gentle Liver Lifters" at once, if they wish to be in the swim.—*Book and News Dealer.*

—THE Minnesota Historical Society has regretfully announced the resignation of Mr. J. Fletcher Williams, for twenty-seven years the Secretary and Librarian of the Society. Mr. Williams proposes to devote himself in future to historical research and authorship. His successor is Hon. William R. Marshall (ex-Governor), one of the oldest pioneers of the State, who has an intimate acquaintance with its history and its people from the earliest days.

—THE page devoted to the District of Columbia in the volume of statistics of public libraries in the United States and Canada just issued by the Bureau of Education contains some interesting figures. The total number of libraries of a public character in the District of Columbia is fifty-eight. This includes the various departmental libraries; those in the schools and other institutions; circulating libraries supported by subscribers, and the Library of Congress. The latter of course leads in the number of volumes with 659,843 bound volumes. The library of the House of Representatives comes next with 125,000 books and that of the Surgeon-General's office has 104,300. Altogether there is contained in the fifty-eight libraries the handsome total of 1,624,640 bound books.

—CHARLES L. WEBSTER & Co. have sold the entire subscription-book department of their business as booksellers and publishers. There is no reason given for their action except the desire of one of the partners in the firm — Samuel L. Clemens — to retire from business.

The best part of their subscription-book department consisted in the "Library of American Literature," compiled and edited by Edmund Clarence Stedman and Ellen Mackay Hutchinson. The value of this work was estimated last March at $259,000. The buyer is William Evarts Benjamin.

—THE Fourth Special Report of Col. Carroll D. Wright, Commissioner of Labor, is now in press. The subject treated of is Compulsory Education in Germany.

The Fifth Special Report on the Gothenburg System of Liquor Traffic, and the Sixth Special Report on the Phosphate industry of the United States have attracted unusual attention, and have had a large demand from all directions..

SCATALOGIC RITES OF ALL NATIONS, by Captain John G. Bourke, U. S. Army. A thorough and exhaustive treatise on a remarkable and little known subject. It consists of a vast collection of facts and extracts from more than one thousand rare books of all ages, illustrating the employment of excrementitious remedial agents in religious ceremonies, therapeutics, divination, witchcraft, love philters, etc., etc. It has received unqualified approval from students of ethnology, folk lore, etc., and has been most favorably reviewed by leading European critics. 8vo, cloth, gilt top, uncut, 496 pages. Price, $4.00

A MANUAL of CONGRESSIONAL PRACTICE, or the U. S. RED BOOK; by Thomas H. McKee, late superintendent of the Document Room of the House of Representatives. 8vo, 398 pages, full red roan. Price, $3.50, postpaid.

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A HISTORY OF THE GOVERNORS OF VIRGINIA, with important papers relating to the State, by Margaret Powell Smith, has just been published by W. H. Lowdermilk & Co. The book must command the attention of all who are interested in the history of the great Commonwealth, and will be a necessity to libraries and students. A consecutive record from the date at which the first Governor entered upon his duties up to the present time enables the reader to refer to every administration with perfect ease, and without loss of time, as well as with the certainty of being able to cover every year of history. The authoress has done her work cleverly and has produced a book which ought to find its way into every collection of Americana, and will prove valuable as a text book on history. The book is well made and attractive in its appearance, octavo size, with illustrations. Price, $2.50.

HON. ARTHUR MACARTHUR, Associate Justice of the Supreme Court of the District of Columbia, retired, has just issued through W. H. Lowdermilk & Co., a new book entitled BIOGRAPHY OF THE ENGLISH LANGUAGE. Judge MacArthur's high reputation as a scholar and philologist is a guarantee as to the value of the work, which has been done in the most attractive manner. It is a 12mo, cloth binding; price, $1.50 by mail.

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ADOPTED BY THE BOARD OF EDUCATION.

We are glad to learn that the Board of Education has adopted Miss Margaret Vowell Smith's book, "The Governors of Virginia," for use in the public schools of the State. The work is an extremely valuable one, and we are pleased to know that its merits have received recognition from such high authority. The children of the State should be made more familiar with the State's history, and Miss Smith has succeeded in presenting, in a condensed and attractive form, a great deal of valuable information in relation thereto. The following is an official copy of the resolution of the Board of Education:

"COMMONWEALTH OF VIRGINIA,
BOARD OF EDUCATION, SEC'Y OFFICE,
RICHMOND, VA., *March* 15th, 1894.

"At a meeting of the Board of Education, held March 13th, 1894, the following resolution was unanimously adopted:

"*Resolved*, That 'The Governors of Virginia,' by Miss Margaret Vowell Smith, be, and is hereby, added to the present list of supplementary readers for use in the public schools of this State.

"A copy from the records of the Board of Education.

"J. A. MCGILMAY,
"Secretary of the Board."

—A NEWSPAPER published once a year is a novelty, yet the Arctic regions have such. The *Eskimo Bulletin* is issued at Prince of Wales Cape, Bering Straits, annually, when the steamer arrives which enables it to fill its foreign intelligence columns. It is printed, or rather hectographed, on stout paper, on one side only. The *Eskimo Bulletin* is in error, however, in assuming, as it does, in a sub-title that it is the "only yearly paper"; for the *Atnaglintit* is also a yearly paper, and is published in about the same latitude as the *Eskimo Bulletin*, at Goothaub, in Greenland. A Parisian journal, the *XXe Siècle*, appears once a year, but this is only to secure the right to the title when the twentieth century becomes a fact.

A GREAT NOVEL.

We have a new publication entitled "John Smith, a Journey Along the Highways and Byways of Life," written by Sebastian Brown, a well-known member of the Baltimore Bar. The book has a very common-place title but its pages contain a novel of absorbing interest which deals with the Social Problems and the Religious Question, both of which are of great importance. It also deals with the different phases of Love, Marriage and Divorce, all written with a degree of skill that places Mr. Brown high up among the authors of the present time. Some of the people who have read the book, say that it contains thoughts second only to Shakespeare. We supply it in paper covers for $1.00.

A FAIR PORTIA IN RED.

Mrs. Clara Foltz and four other ladies of San Francisco have formed the Portia Law Club, whose mission is to enable women to study law. Mrs. Foltz, who is the club's dean, says: "I hope ultimately it will lead to a woman's college of law, and to that end the club will direct its greatest efforts. Fifteen applications for membership are on file, and the matriculation fee of $10 each is to form the nucleus of chair endowments and the like. We shall eventually organize a regular college, with a full corps of professors. I believe in admitting gentlemen to the same privileges as the lady members." To a representative of the *Call* Mrs. Foltz said: "The members of the club at all meetings and social affairs will wear as a distinguishing badge a university mortar-board. Latitude will be allowed in shape and color in order to suit different styles of beauty, but the main idea of the mortar-board must be preserved. As dean of the faculty I will wear a cardinal plush Portia gown, trimmed with white chiffon falling in cascades from the neck and sloping over the hips. I will wear the regular Portia mortar-board, the color to harmonize with that of the gown. Don't you think the costume will be becoming?

—THE LAW OF STRIKES, LOCKOUTS, LABOR ORGANIZATIONS, ETC. (by Thomas S. Cogley, of the District of Columbia bar), has proven one of the most popular and useful law books of the year. It is the only work in which can be found the law and decisions of the courts in strike cases, and is invaluable to the profession. The author has been an industrious investigator, and has dug out of the darkness all that exists as to this important branch of law, and by intelligent treatment has made the path very clear for everybody who wishes to know just what the law is as to the relations existing between the parties on both sides of a strike or a lockout, and what rights may be legally evercised in the conduct of such contests. Judge Cooley and other jurists have given the book high commendation. It is published by W. H. Lowdermilk & Co., Washington, D. C., and may be had of law book sellers generally at $4.00.

—"A GOOD conscience is God's eyes."—*Spanish Proverb.*

—Mr. T. P. O'Connor, M. P., some months since contributed to *Harper's* quite an interesting description of the House of Commons. In the course of his remarks he speaks of the fact that while in the House of Representatives we supply every member with a desk, the House of Commons does not even afford a bench seat for much more than half the members, so that if an unusually important event should attract a large attendance of members, the late-comers must stand around in the corners, or dangle their legs from the window sills, or "take a walk." Mr. O'Connor evidently thinks "the old way is the best," for he advises the removal of the desks from our House of Representatives.

In that event where would a member put his feet? Has Mr. O'C. overlooked this point?

* * *

In the English House of Commons the members of that body are forbidden to write letters, read newspapers or snore. As they can do nothing except to listen to the dull speeches, or talk to their immediate neighbors, time grows heavy, and the majority of them escape the whole thing by staying away. There are 670 members of that body, and as only 400 seats are prepared for them, it is evident that somebody long ago concluded that "their room was better than their company."

* * *

The French have some ideas which are queer to an American. For instance, in their theatres the signal for raising the curtain is three heavy blows struck on the stage floor with a big wooden mallet, while their legislative bodies are called to order by ringing a bell. In the French senate chamber a moderate sized locomotive bell swings on a frame beside the president of the senate. When a vote has been decided or order is desired the president pulls a string and the bell clangs. A senator must ascend to the tribune when he wishes to address his fellow-senators. The tribune is a sort of a circular platform elevated some four feet above the floor of the chamber, and just in front of the president's gallery. This gives him a chance to see everybody in the hall and enables him to dodge the harsh epithets, dynamite bombs, etc.

* * *

In the House of Commons when the presiding dignitary approaches the door of the hall in full regalia and attended by the customary under-guards, the cry of "Speaker, Speaker," goes up, and everybody is on his feet. Centuries of English conservatism envelops the whole affair. When Mr. Crisp steps through the lobby door and takes his place in the speaker's chair of the House of Representatives his presence is announced by a stroke of the gavel and "The House will be in order." The chaplain makes his prayer, the House gets down to business and the gentleman from Arkansville offers his little bill to make the District of Columbia pay half the cost of pulling the snags out of the mouth of Coonskin Creek.

* * *

A young lady who is wholly unaccustomed to parliamentary affairs visited the House of Representatives recently, and she asked why the speaker pounded his desk with that little mallet. Her friend explained that when the speaker wanted to call the House to order he always used his gavel. Not quite clearly catching the name of the "little mallet" the young lady replied that she thought there was *gabble* enough amongst the members without having the speaker add his to it.

—The Governors of Virginia (by Miss Margaret Vowell Smith of Alexandria; published by W. H. Lowdermilk & Co.) has met with a very gratifying reception, and the highest commendation at the hands of competent critics. It would be a good thing for the reading world if such a work could be issued for every State in the Union. It is especially valuable as pertaining to Virginia, since that old commonwealth has a history embracing the period of American existence, and as its method permits one without loss of time to trace the course of the executive government of the State free from all other matter. Miss Smith deserves the gratitude of the country for the painstaking and conscientious manner in which her work has been done. The book can be had of the publishers for $2.50, post paid. The State Board of Education has recently adopted the book for public school use.

—The annual report of the Enoch Pratt Free Library, Baltimore (Dr. Bernard C. Steiner, Librarian), shows a circulation in 1892 of 492,733, from the Central Library and five branches.

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The Washington Book Chronicle

AND

BULLETIN OF GOVERNMENT PUBLICATIONS.

Entered at the post office at Washington, D. C., as second-class matter.

Issued Quarterly. 25 Cents per annum. | WASHINGTON, D. C., JULY, 1894. | Vol. II. No. 3.

—The retirement of Dr. C. V. Riley from the position of Entomologist for the Department of Agriculture, which took effect June 1, 1894, after a long period of distinguished service, has been followed by the appointment as Entomologist of Mr. L. O. Howard, of New York. Mr. Howard was graduated from Cornell in 1877, as B. Sc. After one year of post-graduate work, Mr. Howard received the degree of M. Sc., and was soon after appointed assistant in the Division of Entomology in the U. S. Department of Agriculture. In 1866 when the place of first assistant to the Entomologist was provided by statutory enactment, Mr. Howard received the appointment, and has filled that place ever since. He was the entomological contributor to the Century and Standard Dictionaries and is the author of a chapter in the Standard Natural History.

The vacancy created by his promotion as Entomologist has been filled by the appointment as first assistant of Mr. C. L. Marlatt, of Kansas. Mr. Marlatt was graduated from ths Kansas Agricultural College, B. Sc., in 1884, and in 1886 received the degree of M. Sc. for special work in entomology.

—It must be conceded that dates are of paramount importance in most cases connected with men and affairs. They should on no account be ignored, and yet through sheer carelessness they are not infrequently neglected. We had occasion recently to investigate the annual reports of one of the most important departments of the Government, and were greatly surprised and discomfitted upon discovering that it was impossible to fix the year for which the report was made. The Secretary submitted as "my report for the past fiscal year," but he did not date his letter submitting it, and nowhere else could a date of designation be found. The binder had put on the back a title showing the report to be for 1889-'90. But everybody knows that the dates on the back of the reports refer only to the Congress which receives the report, and that it is no guide to the date of the report itself. The entire system of dates and no dates in the matter of Government publications needs overhauling.

—The Elzevir Book Company of New York, has made an assignment. The head of this concern was John B. Alden, who has been the owner or manager of several other concerns which have gone into bankruptcy, to the great cost of a number of confiding people who have had the cheap book mania, and have put up their money to aid in schemes for selling books on Alden's plans.

—The fifth annual report of Mr. F. P. Hill, the librarian of the Newark Public Library shows splendid progress in library work and very gratifying results in that city. The circulation during the year amounted to 268,320 volumes, and 15,345 individuals used the reference department. The experiment was tried of granting full access to all the books in the library except fiction. The probable results of such an experiment have all along been regarded as very doubtful in such a city as Newark, and Mr. Hill's example will now find many followers, as he reports a complete success, only 43 books being lost in the year.

—Anent the matter of prices, we have before us an original bill rendered by Blount & Morgan against Thomas Brickell, in 1815, for sundry articles of merchandise. As the ordinary pay of a mechanic at that time was obout $1.50 per day, it will be seen that at least a week's labor was required to buy a "fine hat," and one day's labor to buy a muslin cravat. A day's labor at present will buy about one hundred muslin cravats. The items in the bill are as follows:

To 1 fine hatt	$10.00
" 1 vest 2.55; 1 yd cambric 1.25	3.75
" 1 Bandanna handkerchief	1.75
" ⅜ yd. linen cambric at $5.00 per yd.	2.25
" 1 pair shoes	2.50
" 1 pair gloves	1.00
" 1 muslin cravat	1.50

And yet some people are prone to cry out for the "good old times," before lucifer matches were known, and when workmen spent from 12 to 16 hours at the bench, and raised families of from 12 to 16 children on $1.50 per day.

—The Washington Library Association was organized in this city a few weeks ago, with a membership of some twenty-five, nearly all of whom are persons engaged in library work. Mr. A. R. Spofford, Librarian of Congress was selected as president, and Dr. Cyrus Adler first vice-president, and Mr. W. H. Lowdermilk, second vice-

president, and Mr. O. L. Fassig, secretary and treasurer. This club has a fine field for productive labor, as the library work in all the departments and various institutions should be harmonized, and kept up with the latest and best methods established. The experienced can be of great assistance to their co-workers who have had less advantages.

—Biography of the English Language, (by Arthur MacArthur, LL. D., author of Education in its Relation to Manual Industry; essays, addresses, etc.) The subject of this work is the English Language, and the object is to furnish an account of its rise and progress from the earliest periods of its history. This naturally reaches back to the primeval races from whom the English people sprang, and relates to the manner in which their varied dialects finally merged into our present form of speech.

Comparative Philology is the science of scholars, but a knowledge of our own language can easily be acquired by those who speak it. The intention is, therefore, to give a plain and popular history of our mother tongue alone, and to set it off with critical remarks and slight biographical sketches of ancient and modern authors who have used it in composing their works. The ordinary reader may thus learn the English history of the English language without being called upon to understand either Greek or Latin, or even any of the modern tongues. The book is made more complete by an examination into the present position of English among the languages of the world. A table of contents is printed and a general index is added. 12°, cloth, 417 pp., $1.50. W. H. Lowdermilk & Co., publishers, Washington, D. C.

—"The Organized Militia of the United States" is the title of a publication from the Military Information Division of the War Department, recently issued. It gives the official designations and the authorized and organized strength of the militia of the various States in the Union. It appears therein that the total organized strength is 112,190, and there are liable to military duty 8,634,040. The New York National Guard numbering 12,810 comes first; Pennsylvania next, with 8,614. Illinois has only 4,777 out of a population of 650,000 liable to military duty, which is only one-half of the strength authorized by law. This useful book is a 4° of 171 pages, price $2,00, which is less than the cost of printing. Only a small edition was issued.

THE PHŒNIX.

—"The ancient tradition concerning the phœnix," said Martin P. Bolles, "has introduced into nearly every language the habit of applying that name to whatever is singular or uncommon among its kind. According to ancient writers the phœnix was a bird of great beauty, about the size of an eagle. A shining and most beautiful crest adorned its head, its plumage contained nearly every tint of the rainbow, and its eyes sparkled like diamonds. Only one of these birds could live at a time, but its existence covered a period of 500 or 600 years. When its life drew to a close the bird built for itself a funeral pile of wood and aromatic spices, with its wings fanned the pile into a flame, and therein consumed itself. From its ashes a worm was produced, out of which another phœnix was formed, having all the vigor of youth. The first care of the new phœnix was to solemnize its parent's obsequies. For that purpose it made a ball out of myrrh, frankincense and other fragrant things.

"At Heliopolis, a city in lower Egypt, there was a magnificent temple dedicated to the sun. To this temple the phœnix would carry the fragrant ball and burn it on the altar of the sun as a sacrifice. The priests then examined the register and found that exactly 500 years, or exactly 600 years, had elapsed since that same ceremony had taken place.

LARGE FEE.

—It is always refreshing to learn of lawyers who will not undertake an unjust cause. Of Judge Ira Perley his biographer says:

He believed in the justice of his client's cause; he would not enlist in it otherwise.

At one time a sharper tried to retain him and was smoothing over his crooked conduct as well as he knew how, when the judge astonished him by exclaiming:

"I think you have acted like an infernal scoundrel, sir."

"Is there any charge for that opinion?"

"Yes, sir; $5."

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1445 ———Bulletin No. 2. Proceedings of the Minnesota Good Roads Convention, 1894; 16 pp. .10

1446 ———Bul. No. 3. Improvement of the road system of Georgia, by O. H. Sheffield; 31 pp. .20

1447 ———Bul. No. 4. Report on roadmaking materials in Arkansas, by John C. Brauner; 11 pp. .10

1448 ———Bul. No. 5. Information regarding road materials and transportation rates in certain States west of the Mississippi River; 24 pp. .25

1449 ———Bul. No. 6. Information regarding roads, road materials and freight rates in certain States north of the Ohio River; 30 pp. .25

1450 ———Bul. No. 8. Earth Roads; Hints on their construction and repair, by Roy Stone; 20 pp. .20

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A book of biographies of distinguished individuals of every sect and nation in Islam down to the 13th century, as pronounced to the learning, genius and industry of the author.

The Laws of Spain in Their Application to the American Indians, by John G. Bourke, Captain Third Cavalry, U. S. A.; Eleven Pages. - - - - - - - - - 20 cents

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AND

BULLETIN OF GOVERNMENT PUBLICATIONS.

Entered at the post office at Washington, D. C., as second-class matter.

Issued Quarterly. 25 Cents per annum. | WASHINGTON, D. C., OCTOBER, 1894. | Vol. II. No. 4.

—The twelfth annual report of the Bureau of Ethnology is made up of an exhaustive discussion of facts relating to the Mound Builders, a subject which has always commanded the greatest interest, and the more important conclusions reached are as follows:

1. That the Mound Builders consisted of a number of tribes occupying about the same culture-status as did the Indian tribes at the time of the arrival of Columbus.

2. That the archaeological districts con form in a general way to the areas occupied by the different Indian tribes.

3. That each tribe adopted several different methods of burial, depending somewhat upon the social standing and occupation of the individuals.

4. The custom of removing the flesh before final burial prevailed largely among the northern tribes and to some extent among those in the southern districts.

5. At times some religious ceremony was performed at the burial in which fire played a conspicuous part. But there is no evidence that human sacrifice was at any time practiced. There may have been cases of cremation.

6. In the valley of the lower Mississippi, where land was very low, dwellings were erected on mounds, apparently constructed to elevate the houses, and in case of death it was a custom to bury the remains in the floor of the dwelling, burn the house, and heap a mound over it while the embers were yet smouldering. The houses appear to have been constructed of upright posts set in the ground, lathed with cane or twigs and plastered with clay, with thatched roofs, as described by early French explorers.

7. The links connecting the Indians and Mound Builders are so well established as to justify the theory that they are one and the same people.

8. The statements of early explorers as to the habits, customs, social condition and art of the Indians when first visited by the Europeans are largely confirmed by discoveries in the mounds and other ancient works of our country.

9. The evidence justifies the conclusion that particular works are attributable to particular tribes known to history, thus giving some clue to the lines of migration. It is pretty certain that the Cherokees were mound builders, and that to them are to be attributed the mounds of eastern Tennessee and western North Carolina, as well as of the most ancient works in the Kanawha Valley, in West Virginia. To the Shawnese are to be attributed the box-shaped stone graves and mounds in the region south of the Ohio.

10. The testimony of the mounds is against the theory that the mound builders were Mayas or Mexicans who were driven out by Indian hordes, and also against the theory that they were related to the Pueblo tribes of New Mexico.

11. While a large portion of the mounds belong to a prehistoric time, yet many of them bear evidence of contact with European civilization and must have been constructed subsequent to the discovery of the continent by Columbus.

The work throughout bears evidence of the most thorough investigation, and is in every respect well done, the three hundred illustrations adding largely to its value.

—Nearly sixty years ago Congress authorized the purchase of the letters written by James Madison, and appropriated $30,000 to pay for the same. This correspondence has since then been preserved in the State Department, and just now a "calendar" of the same has been printed under the supervision of Mr. Allen, chief of the Bureau of Rolls and Library, showing to whom each letter was addressed, its date, and a brief statement of its contents. Incidentally a good many other letters written to Madison, and letters passing between distinguished men of his day, are included. Only a very small edition was printed.

—The most extensive and important map work ever undertaken in this country is now in course of production at the hands of the United States Geological survey. This is nothing less than the preparation of a large topographic map, and a large geologic map of the United States, which are being issued together in the form of a geologic atlas, folio size, 18x22 inches. Each folio contains a topographic map and a geologic map, others showing economic geology, structure sections and columinar sections, each embrac-

ing a small section of country, and is accompanied by explanatory and descriptive texts. The complete atlas will comprise several thousand folios.

The features represented in the topographic map are of three distinct kinds: 1st, inequalities of surface, called *relief*, as plains, valleys, hills, mountains; 2d, distribution of water, called *drainage*, as streams, lakes, ponds, swamps, and canals; 3d, the works of man, called *culture*, as roads, railroads, boundaries, villages and cities.

The Geologic Map represents the distribution of rocks, and is based on a topographic map,—that is, to the topographic representation the geologic representation is added, distinctively and beautifully colored.

The area of the United States (without Alaska) is about 3,025,000 square miles. On a map 240 feet long and 180 feet high the area of the United States would cover 3,025,000 square inches. Each square mile of ground would be covered by a corresponding square inch of map surface, and one linear mile of ground would be represented by a linear inch on the map. These atlas sheets before us seem to be on a scale of 25,000, or about one square inch to sixteen square miles, but others will probably be on a larger scale.

The magnitude of this work must excite unusual admiration, and the editing by Mr. Bailey Willis, and the preparation of the plates under the direction of Mr. S. J. Kubel, chief engraver for the survey, are in the highest degree creditable.

A copy of each atlas will be sent to every public depository of government publications in the country, and when the edition shall have been reduced to a certain point the remaining copies will be offered for sale at a minimum price.

—The Public Printer at Washington has lately invoked the protection of the Secretary of the Interior against bad "copy" and other extravagant indulgences of officials ignorant of or indifferent to printing house economy. He insists, rightly enough, that copy should be edited, and generally type-written, before it is sent to him, that proofs should be promptly returned, and expensive corrections avoided, etc. It was found that in many cases "proofs" were returned to the printing office so altered and marked up as to make the corrections cost more than the original composition. In some instances the officials who supplied the copy had no knowledge of the art of printing and did not realize that wholesale changes were expensive. In some other cases the authors were indifferent to the expense, so long as it was charged to "Uncle Sam." Mr. Benedict has done a very wise and proper thing in demanding fair copy and no unnecessary changes.

—The American Humane Education Society, 10 Milk street, Boston, has issued a little book called "The Strike at Shane's," a sequel to "Black Beauty," and the moral is of as high tone as its predecessor, and ought to meet with a great demand.

—A good story is told of a certain bookseller who sent a set of books to be bound in scarlet morocco. They came home neatly bound in green calf. The irate bookseller rushed instanter to the bookbinder and demanded an explanation.

"What the infernal do you mean by binding books in your own adjective style? You had an order, a written order! Why didn't you follow it?"

The bookbinder acknowledged he *had* an order, and what was more he had followed it. He turned up the order and showed it. It read, "Scarlet morocco—or nearest you have in stock."

Some folks are *never* satisfied.

—A new British trade dollar is being coined for use in the East in the Calcutta mint. It is of the same weight and fineness as the Mexican peso. This will help the Indian authorities to use some of their surplus silver.

—The library of Yale University has received and placed on exhibition an exceedingly rare and interesting collection of ancient books and manuscripts, the gift of Mr. William L. Andrews, of New York City, as a memorial to his son, Loring W. Andrews, of the class of '83. It is the most valuable collection of books which the university has received in many years and is estimated to be worth in the neighborhood of $12,000.

Recovery of Money Obtained by Fraud.—Where money is wrongfully obtained by means of a voidable contract, and for no consideration whatever, a suit may be maintained for its recovery without a prior demand for its return.—*Baldwin v. Hutchinson* (*Appellate Court of Indiana*), *35 N. E. Rep. 711.* (*37*).

Who Are Partners in a Partnership.—Although a partner has no authority to bind his co-partners by entering into another partnership, such co-partners, by participating in the business and profits of the other partnership, and joining in an action for its dissolution and the appointment of a receiver, make themselves partners in fact, and are liable as such on the dissolution.—*Miller v. Rapp*, (*Supreme Court of Indiana*), *35 N. E. Rep. 693.* (*64*).

Liability of Corporation for Acts of Promotor.—A promotor is not an agent, for agency implies the exercise of a principal and a delegation of authority from the principal to the agent. Therefore a corporation is not responsible for acts performed or contracts entered into by a promotor before it came into existence. But such a corporation may, however, make itself responsible for such acts and representations by adoption. The adoption of an agreement made by a promotor of a corporation may be implied from the acts or acquiescence of the corporation without any express acceptance. After a corporation has knowingly received the benefits of an arrangement or understanding entered into by its promotors it will not be permitted to deny that it did not agree to it.—*Huron Printing and Bindery Company v. Kittleson* (*Supreme Court of South Dakota*), *57 N. W. Rep. 235* (*140*).

Effect of Payment to Wrong Person.—Where an attorney takes a note and mortgage, making them payable to his clerk, who, at the request of the attorney, assigns them for value to a client, who does not notify the mortgagors of the assignment, and who receives payments of interest from the attorney; and the mortgagors, supposing that the attorney is owner of the note and mortgage, pay him the interest and principal, and he absconds, they cannot obtain cancellation of the instruments. An assignee of a mortgage owes no duty to the mortgagor to notify him of the assignment. —*Mulcahy v. Fenwick* (*Supreme Judicial Court of Massachusetts*), *36 N. E. Rep. 689.* (*99*).

Validity of Sale by Legatee to Executor.—A release or transfer by a legatee of his interests in the estate to the executor for an apparently adequate consideration does not raise a presumption of fraud. Where the firm books showed the testator's nominal and unliquidated interest was $138,000, a sale of such interest to surviving partners, who were also executors, for the liquidated sum of $120,000 did not show inadequacy of price, or that the executors made a profit of $18,000 by the purchase, since there would naturally be a shrinkage in the conversion of the assets into cash. A delay by a legatee for sixteen years after a sale of his interest to the executors, and for thirteen years after giving them a general release, to attack such sale raises a presumption of fair dealing which overrides any presumption of wrongdoing growing out of the trust relation of the parties.—*Geyer v. Snyder* (*Court of Appeals of New York*), *35 N. E. Rep. 784* (*150*).

—At a recent London sale a copy of the verses of Ada Isaacs Menken, "Infelicia," brought three guineas. The little book was originally sold for little more than as many shillings. "Infelicia," it may be remembered, is dedicated to Charles Dickens, and in it Menken printed a fac-simile of a letter from him accepting the dedication. Dickens used to tell, with much humor, how this concession was wheedled out of him. At a time when Menken was playing "Mazeppa" in London, he was at the theatre. Her business manager captured him and carried him prisoner behind the scenes to be introduced to the star. She told him it had been the dream of her life to meet him, and gushed over his genius till he felt ashamed of himself, probably just as she before had gushed over her husbands, Newell, the humorist, and John C. Heenan, the hard hitter. The dedication of the book followed. Menken was at the time on good terms with Swinburne, who is believed to have more than touched up her verses for her, and she wound up her literary associations with Dumas to the vast disgust of his son.

List of Late Books, Documents, Etc., issued by Congress and the various departments of the government. This is intended to be a description of only the more important of such publications.

1508 **Agriculture.** Suggestions Regarding the Cooking of Food, by Edward Atkinson,—the nutritive value of common food materials, etc.; 8°, 31 pages

1509 ——*Animal Industry.* Bulletin No. 6. Additional investigations concerning infectious swine diseases, by Doctors T. Smith and V. A. Moore, 8°, 117 pp.

1510 ——*Entomology.* Periodical Bulletin, issued September 1894, vol. VI, No. 5. *Insect Life.*

1511 ——*Same.* Bulletin No. 32. Reports, etc. on practical work of the Division, 159 pages.

1512 ——*Experiment Stations.* Vol. V, No. 11, and Vol. VI, No. 1. Experiment Station Record, 8°, 88 pp.

1513 ——*Same.* Bulletin No. 20. Proceedings second annual convention at Chicago, October 17-19, 1893, 8°, 100 pages.

1514 ——*Fiber Investigations.* Report No. 6. A report on the uncultivated Bast Fibers of the United States, by Charles R. Dodge, 8°, 54 pp.; 5 plates.

1515 ——Farmer's Bulletin No. 18. Forage Plants for the South, by S. M. Tracy, 8°, 30 pages.

1516 ——*Same.* Bulletin No. 19. Important insecticides; directions for their preparation and use, by C. L. Marlatt, 8°, 20 pages.

1517 ——*Office of Road Inquiry.* Bulletin No. 7. Information regarding roads and road making materials in certain eastern and southern states, 29 pages.

1518 ——*Same.* Bulletin No. 9. State aid to road-building in New Jersey, by Edward Burrough, 8°, 20 pages.

1519 ——Vegetable Pathology. Bulletin No. 7. Effect of spraying with fungicides on the growth of nursery stock, by B. T. Galloway, 41 pages.

1520 ——*Weather Bureau.* Bulletin No. 3. A report on the relations of soil to climate, by E. W. Hilgard, 8°, 59 pages.

1521 ——*Same.* Bulletin No. 4. Some physical properties of soils in their relations to moisture and crop distribution, by Milton Whitney, 8°, 90 pages.

1522 ——*Same.* Bulletin No. 5. Observations and experiments on the fluctuations in the level and rate of movement of groundwater on the Wisconsin Experiment Station farm, and at Whitewater, Wisconsin, by Franklin H. King, 8°, 75 pages and diagram.

1523 **American Historical Association.** Annual Report for 1893, 8°, 605 pp.

CONTENTS:

Report of Ninth Annual Meeting.
Dr. Angell's Inaugural Address on Inadequate Recognition of Diplomatists by Historians.
The Value of National Archives, by Mrs. Ellen H. Walworth.
American Historical Nomenclature, by Hon. A. R. Spofford.
Definition of History, by William P. Johnson.
Historical Industries, by Dr. James Schouler.
Historical Method of Writing the History of Christian Doctrine, by Prof. C. J. Little.
Requirements for the Historical Doctorate in America, by Prof. E. Emerton.
The First Fugitive Slave Case of Record in Ohio, by Hon. W. H. Smith.
The Present Status of Pre-Columbian Discovery of America by Norsemen, by Hon. J. P. Baxter.
Prince Henry, the Navigator, by Prof. E. G. Bourne.
Economic Conditions of Spain in the 16th Century, by Prof. B. Moses.
The Union of Utrecht, by Prof. Lucy M. Salmon.
English Popular Uprisings of the Middle Ages, by Dr. G. Kriehn.
Jefferson and the Social Compact Theory, by Prof. G. P. Fisher.
Relation of History to Politics, by Prof. J. Macy.
Early Lead Mining in Illinois and Wisconsin, by R. J. Thwaites.
Significance of the Frontier in American History, by Prof. F. J. Turner.
Roger Sherman in the Federal Convention, by Dr. L. H. Boutell.
Historical Significance of the Missouri Compromise, by Prof J. A. Woodburn.
The First Legislative Assembly in America, by Hon. William Wirt Henry.
And other articles, concluding with contributions towards a bibliography of American history, 1888-1892.

1524 **Calendar of the Correspondence of James Madison.** A bulletin of the Bureau of Rolls and Library of the Department of State, No. 4, imp., 8°, 739 pp., paper.

1525 **Census.** Eleventh of the United States. Vital Statistics of New York City and Brooklyn, covering a period of six years ending May 31, 1890, by Dr. John S. Billings; 4°, 529 pages, 6 colored maps of cities and map in pocket; cloth.

1526 ——*Same.* Abstract of the Eleventh Census, 1890; 8°, 250, vii pages; cloth.

1527 ——Compendium of Eleventh Census, vol. 2; 8°; cloth.

1528 **Coinage Laws of the U. S.** 1792 to 1894, with an appendix of statistics relating to coin and currency; fourth edition; revised and corrected to August 1, 1894; 8°, xviii, 894 pp.

1529 **Consular Reports.** Reports of U. S. Consuls living abroad. June, 1894; No. 165; 8°.

CONTAINS: Values of foreign coins; foreign weights and measures; extension of markets for American flour; new tariff of Canada; exports of sugar from Cuba, American wool in Bradford, etc.

1530 ——— *Same.* July 1894. No. 166.

CONTAINS: Contracts for European army supplies; peanuts and peanut oil; the great Liberian railway; packing goods for export, etc.

1531 ——— *Same.* August 1894; No. 167.

CONTAINS: Tanning qualities of canaigre; labor of Belgium, electrical sanitation in France; technical and trade schools in Germany, etc.

1532 *Same.* September, 1894; No. 168.

CONTAINS: American flour in foreign markets; sugar production in Egypt, and Australian crisis of 1893; exports declared for the United States from Austria-Hungary, Belgium, Canada, Germany, Italy, Mexico. Russia, United Kingdom, etc.

1533 **Ethnology.** Contributions to North American Ethnology, Vol. IX. Dakota grammar, texts, and ethnography, by S. R. Riggs; 4°, 239 pages.

1534 ———Twelfth Annual Report for 1890-'91; 8°, xiviii, 742 pp.; 42 plates; 344 illustrations.

CONTAINS: Archaeologic areas and distribution of types; the Mound Builders, etc. This is the most comprehensive work that has been written regarding the Mound Builders.

1535 **Geologic Atlas of the United States.** Livingston, Montana folio, 6 pages text, 5 maps, embracing topography, areal geology, economic geology, structure sections, and columnar sections.

1536 **Geological Survey.** Bulletin No. 98.

1537 ———Flora of the outlying carboniferous basins of southwestern Missouri, by David White, 1893; 8°, 139 pp,; 5 plates.

1538 ———Record of North American geology for 1891, by Nelson Horatio Darton, 1892; 8°, 73 pp.

1539 ———Insect fauna of the Rhode Island coal field, by Samuel Hubbard Scudder, 1893; 8°, 27 pp.; 2 plates.

1540 ———Bibliography and index of the publications of the U. S. Geological Survey, 1879-1892, by P. C. Warman; 8°, 495 pages.

1541 **International Congress of Engineers,** held in Chicago, Columbian Exposition. Operations of the division of military engineering; 8°, 982 pages; paper; many illustrations.

1542 **Laws of the United States,** governing and granting of army and navy pensions, together with regulations relating thereto; 8°, 192 pages; paper.

1543 **Monroe, James.** Calendar of his correspondence. Bulletin 4, Bureau of Rolls and Library, State Department; imp. 8°, 739 pages.

1544 **Nautical Almanac** and American Ephemeris for 1896; 8°, cloth.

1545 **Nautical Almanac.** Pacific Coaster's, for 1895; 8°, paper, 77 pages.

1546 **Nebraska.** The discovery of Nebraska and visit to Nebraska in 1662, by James W. Savage; 8°, 60 pages. [sm14b53.]

1547 **Smithsonian Institution.** Annual report for year ending July, 1893; 8°, xliv & 763, paper.

CONTAINS:

The Wanderings of the North Pole, by Sir Robert Ball.
The Great Lunar Crater Tycho, by A. C. Ranyard.
The Early Temple and Pyramid Builders, by J. Norman Lockyer.
Variable Stars, by Prof. C. A. Young.
The Luminiferous Æther, by Sir George G. Stokes.
Atoms and Sunbeams, by Sir Robert Ball.
Fundamental Units of Measure, by T. C. Mendenhall.
Photography in the Colors of Nature, by F. E. Ives.
Photographs in Natural Colors, by Leon Warnerke.
Electric Spark Photographs of Flying Bullets, by C. V. Boys; illustrated.
Magnetic Properties of Liquid Oxygen, by Prof. Dewar; illustrated.
The Problem of Flying, by Otto Lilienthal; illustrated.
Practical Experiments in Soaring, by Otto Lilienthal; illustrated.
Phenomena Connected with Cloudy Condensation, by John Aitken.
On Chemical Energy, by Dr. W. Ostwald.
The American Chemist, by Prof. G. C. Caldwell.
The Highest Meteorological Station in the World, by A. Lawrence Rotch.
The Mont Blanc Observatory.
Relations of Air and Water to Temperature and Life, by Gardiner G. Hubbard.
The Ice Age and its Work, by A. R. Wallace.
Geologic Time as Indicated by the Sedimentary Rocks of North America, by Charles D. Walcott.
The Age of the Earth, by Clarence King; illustrated.
The Renewal of Antartic Exploration, by John Murray.
The North Polar Basin, by Henry Seebohm.
The Present Standpoint of Geography, by Clements R. Markham.
How Maps are Made, by W. P. Blakie.
Biology in Relation to Other Natural Sciences, by J. S. Burdon-Sanderson.
Field Study in Ornithology, by H. B. Tristram.
The So-called Bugonia of the Ancients, and its Relation to a Bee-like Fly, Eristalis tenax, by C. K. Osten Sacken.
Comparative Locomotion of Different Animals, by E. J. Marey; plates.
The Marine Biological Stations of Europe, by Bashford Dean; plates.
The Air and Life, by Henry de Varigny.
Deep-sea Deposits, by A. Daubree; plates.
The Migration of the Races of Men Considered Historically, by Prof. James Bryce.

1548 **Statutes** of the United States of America, passed at the first session of the Fifty-third Congress, 1893, and treaties.

1549 **Synopsis of Decisions** of the Treasury Department and Board of U. S General Appraisers on the construction of the tariff, navigation and other laws, for the year ending December 31st, 1893; 8°, half sheep; 932 pages.

1550 **Tariff. Imported Merchandise**, 1893, with rates and duties collected under the existing law; also the rates and estimated revenues under the bill as passed by the House of Representatives and with Senate amendments; 8°, 82 pp. [sr407b53.]

1551 **Tariffs of the American Republics**, with correspondence between United States and South American countries as to reciprocal commercial arrangements; 3 vols., 8°, paper.

1552 ———The Tariff Act, as passed by the two Houses of Congress; 8°, 69 pages.

1553 ———Comparison of the customs laws of 1894 and 1890, with rates of the Wilson bill of 1894 and the Mills bill of 1888, and statistical tables showing qualities and values of imports and rates of duty thereon under various tariffs. Indexed. Second edition. Revised; 8°, 537 pages; paper.

1554 ———Customs laws of 1894 compared with the customs laws of 1890, with rates of the Mills bill of 1888 and the Wilson bill of 1894, with tables of average and ad valorem rates; 8°, 280 pages.

1555 ———The tariff law of 1894 compared with the tariff law of 1890, the Mills bill of 1888 and the Wilson bill of 1894 prepared under direction of the Senate Finance Committee; 8°, 280 pages, [sr698b53.]

—The Public Printing Bill is now reposing in conference, since the Senate, by amendment, restored the paragraphs twice stricken out by the House. What the result will be is somewhat problematical, as the House members of the conference committee are opposed to the House itself in its position. Mr. Richardson introduced the bill in the House, and asked its passage by unanimous consent, stating that it was the same bill which had previously passed the House by unanimous vote, but it transpired that it was the same bill with all the paragraphs the House had stricken out. These were again expunged with some show of indignation. When the Senate got the bill it practically restored the rejected items, and Mr. Richardson again asked the House to pass the bill, as the amendments were important The House had the amendments read, and refused to accept them, and sent the bill to conference.

The House has become somewhat "riled" over the matter, but no doubt the bill will be returned with a recommendation to agree to the Senate amendments. About that time there will be some "strong talk."

—Mr. Spofford's report as Librarian of Congress, for 1894, reveals the fact that notwithstanding the prevailing business depression there has been during the year quite an increase in the number of copyrights issued, the whole number being 58,956, an increase over 1893 of 4,221. The fees received from copyrights amounted to $46,728.75.

The table following exhibits the number and classification of copyright entries.

Number of articles entered in 1893.

Books	18,498
Periodicals	11,094
Musical compositions	16,273
Dramatic compositions	580
Photographs	4,920
Engravings	1,521
Lithographs	918
Chromos	1,810
Prints and cuts	701
Designs and drawings	460
Paintings	202
Maps	1,814
Charts	165
Total	58,956

—The new National Library Building is progressing in the most satisfactory manner, under the supervision of Mr. Bernard Greene, who has devoted all his energies towards developing the highest possibilities not only in an architectural way, but in the appliances, furniture, etc., necessary to the intelligent, economical and convenient administration of the library business. Every question so far has been satisfactorily met, and it is fair to say that Mr. Spofford and Mr. Greene will be able to provide against mistakes of all sorts, and that when the work is completed the United States will be able to boast of the best designed, best built, and most elegantly finished library building in the world.

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Heitman's Historical Register of officers of the Continental army during the War of the Revolution, April, 1775 to December, 1783. Embraces: 1st, General officers of the Continental Army, arranged according to rank, with period of service of each. 2d, List of Military secretaries and aides-de-camp of General Washington, with period of service as such; 3d, Chronological position of field officers of the line in successive order, arranged by States and Regiments; 4th, Alphabetical list of officers in the Continental Army, including many officers of the militia, giving date of rank in each grade; all brevet commissions; all cases in which thanks, swords, or honors were conferred by Congress; date and place if killed, wounded, taken prisoner and exchanged; and in many cases date of death after leaving the service; 5th, List of officers of the Continental Army, furnished to Congress by the War Department in 1827; 6th, List of French officers who served with the American army; 7th, Chronological and alphabetical list of battles, actions, etc.; 8th, Calendar for the years of the Revolution. By mail for $5.00.

Documentary History of the Constitution of the United States, 1787-1870. Derived from the records, manuscripts and rolls deposited in the Department of State at Washington. Contents: Proceedings of the Annapolis Convention; Proceedings of the Continental Congress; Credentials of Delegates to the Federal Convention; Receipt of the Secretary of State to the President of the Federal Convention; Proceedings of the Federal Convention. Appendix: Papers subsequently received.

This is a letter-perfect copy of the original papers, showing all changes, erasures, insertions, etc., and must be extremely interesting to librarians, collectors, historians and others. Only 750 copies printed. Elegant half-morocco binding. Sent by express prepaid for $10.00.

Biography of the English Language, by Arthur MacArthur, LL. D., Associate Justice of the Supreme Court of the District of Columbia, retired. The subject of this work is the English language, and the object is to furnish an account of its rise and progress from the earliest periods of its history. This naturally reaches back to the primeval races from whom the English people sprang, and relates to the manner in which their varied dialects finally merged into our present form of speech.

Comparative philiology is the science of scholars, but a knowledge of our own language can easily be acquired by those who speak it.

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Congressional Practice; (The U. S. Red Book). By Thomas H. McKee. Being an outline of the Legislative and Parliamentary Proceedings, or review of daily practice in the Senate and House of Representatives, showing the actual method of work from the organization to the close of Congress with all the various forms used and every detail of Congressional practice. Royal 8vo, 398 pp., Red Roan, $3.50.

The Missing Link in Shorthand. A treatise on Legibility and the Acquirement of Speed in Stenographic Writing. By Samuel C. Dunham. The author of this book, Mr. Dunham, is the stenographer of the Department of Labor, and one of the most accomplished experts in the theory and practice of stenography, as he is also in typewriting. The copy was all prepared on a typewriter, and the book is a photo-lithographed facsimile reproduction, and as a specimen of typewriting alone is worth twice the price asked. It is an 8°in cloth binding. Price, by mail, $1.12.

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GENERAL LAND OFFICE — NOTES ON RECENT DECISIONS.

[Edited by CHAS. A. KEIGWIN, Attorney.]

INSANITY.—It will be remembered that in Olmstead *v.* Miller, 15 L. D., 399, the Department held that the mental condition of an entryman is not a question within the departmental jurisdiction but should be ascertained under the laws of the State in which he resides. This decision doubtless struck the bar will surprise, inasmuch as a claimant's sanity would naturally be supposed one of the qualifications to enter, upon which the land officers must pass before allowing or sustaining his entry. In Alden *v.* Ryan, 12 L. D., 690, it had been held that the Department has authority to ascertain, by proceedings of its own, a claimant's mental status; this case was not noticed in Olmstead *v.* Miller. In Mefford *v.* Carver, 18 L. D, 208, evidence as to a party's sanity was considered, and in Kay *v.* Kay, July 2, 1894, 19 L. D., 6, a claimant was pronounced insane on testimony in the case. Those later cases seem naturally to overrule Olmstead *v.* Miller, and to indicate a return to the positions taken in Alden *v.* Ryan.

That an insane or imbecile entryman may defend by guardian or committee, is held in Carey *v.* Currey, 7 L. D., 27; and provisions for such officers obtaining notice was made *in re* Susan E. Findley, 2 L. D., 101. Service upon a lunatic is to be made in the manner prescribed by local law: Hagen *v.* Gulbranson, 10 L. D., 238.

An adjudication, on an inquest of lunacy, that a party is insane, will be accepted as conclusive by the Department; Likens *v.* Connolly, 13 L. D., 541.

PREFERENCE RIGHT—DEFECTIVE CONTEST.—Where a contest affidavit, which is either technically or substantially defective, is filed against an entry, and before hearing the defendant relinquishes, does the contestant have a preference right? In Hay *v.* Yager, 10 L. D., 105, this question was answered in the affirmative, and in Coffey *v.* Tracy, 12 L. D., 492, it was held that no preference could be claimed on account of a defective contest. Young *v.* Mason, decided July 2, 1894, 19 L. D., 8, cites Hay *v.* Yager as authority, and allows the contestant a preference upon condition that he show that the relinquishment was induced by his contest.

SURVEYS.—A final decision of the Department directing the survey of a tract as public land precludes the subsequent consideration of a claim to such tract based on riparian ownership; the queston becomes *res adjudicata* as far as concerns the Department: so held in Gowdy *v.* Gilbert, 19 L. D., 17, citing Case *v.* Church, 17 L. D., 578.

But the denial of a survey does not preclude consideration of a subsequent application for the same survey, the rule of *res adjudicata* not applying. Timothy B. Case, 9 L. D., 625.

The holding in Case *v.* Church and in Gowdy *v.* Gilbert suggests an interesting question as to the authority of the Department to review its order for surveys and to set aside its plats. In the case of the Virginia Lode, 7 L. D., 459, it was held that a plat manifestly irregular and erroneous might be set aside, and that title to a school section within the survey did not pass to the State. In Barnard *v.* Ashley, 18 How., 43, the withdrawal of plats after filing at the local office was mentioned without disapproval. In State of California, 14 L. D., 253, plats of townships bounded by Lake Tulare were held void though the surveys had been ordered many years before, after careful consideration of the character of the land and the rights of adjacent owners.

It seems to be the settled doctrine of the Supreme Court that surveys once made and recorded cannot be corrected so as to prejudice titles acquired with reference to the plat: Lindsey *v.* Hawes, 2 Black, 554; Cragin *v.* Powell, 128 U. S., 691; an erasure from the plat of a legend upon which a title rests is a nullity and does not affect the title, as where land returned as swamp vested in the State by virtue of the return and the Land Office altered the returns: Tubbs *v.* Wilhoit, 138 U. S., 135; an injuntion lies to prevent the Department from cancelling or altering plats upon which vested rights depend: Union River, etc., Co. *v.* Noble, 147 U. S., 165, in which the Supreme Court overrules 12 L. D., 574, and the Attorney-General's opinion in 19 Op., 546.

In John W. Moore, 13 L. D., 64, and Noyes *v.* Beebe, 16 L. D., 313, it was held that an official plat is a record of so high authority that it can not be impeached by a private survey. This is contrary to the opinion of Attorney-General Garland, 19 Op., 126, and the Department, in F. W. Jones, 18 L. D., 154, seems to hold that an erroneous survey may be rectified if notice of the proceeding is given to all parties in interest.

RAILROAD LANDS—ACT OF 1887.—Under Sec. 5, Act of March 3, 1887, 24 Stat., 556, land lying within the indemnity limits of a railroad, and sold by the company, may be purchased of the United States by the ven-

dees, although the lands were never properly selected by the company, and were not required to compensate deficiencies in granted limits: Pierce *v.* Musser-Sauntry Co., 19 L. D., 136.

A sale of standing timber on such lands, conveying the right to cut and remove within a specified time, is the sale of an interest in the land, and the vendee is entitled to purchase under Sec. 5 of the act of 1887: Telford *v.* Keystone Co., 19 L. D., 141.

A body corporate may claim the right of purchase under this section, equally with one individual: so held in the two cases above cited.

PROTESTANT'S RIGHT OF APPEAL.—The ruling in McKinley *v.* Walsh, 13 L. D., 507, that a protestant may have the right of appeal if the protest is for the purpose of clearing the record in order to assert an interest or right of his own, is cited and followed in Telford *v.* Keystone Co., 19 L. D., 141.

SETTLEMENT OUTSIDE OF CLAIM.—The holding in Brownlee *v.* Shill, 14 L. D., 309, that a settler who has made homestead entry of a tract and whose dwelling is shown by a resurvey to be upon another subdivision, may make pre-emption entry of the latter quarter-section without violating Sec. 2260, R. S., is affirmed and applied in Hazzard *v.* Mock, October 9, 1894, 19 L. D., 166. *Quære:* what is one in such a predicament to do since the pre-emption law is repealed? In Lindsey *v.* Hawes, 2 Black, 554, it was held that the existing subdivisional lines could not be changed by a corrective survey so as to prejudice a sale made with reference to such lines; the settler in Brownlee *v.* Shill might have spared himself uneasiness on the authority of this case. In Hazzard *v.* Mock, however, there was no resurvey, but the settler had mistaken the lines and built his house outside boundaries of the tract which he entered. In Phylorman Higgins, 2 C. L. L., 406; L. C. Huling, 10 L. D., 83; and in case passed upon by Attorney-General Butler, 3 Op., 312; it was held that a *bona fide* mistake of this land will not prejudice the settler's claim of a residence, these being *ex parte* cases. In Smith *v.* Brearly, 9 L. D., 175, and in Kendrick *v.* Doyle, 12 L. D., 67, similar doctrine was asserted, though the statements appear rather to have been made *obiter* than because the point was actually involved. In Arnold *v.* Langley, 1 L. D., 439, and Talkington's Heirs *v.* Hempfling, 2 L. D., 46, the error was not made ground of contest until after final entry; so also in Noe *v.* Tipton, 14 L. D., 447; Staples *v.* Richardson, 16 L. D., 248, is perhaps the only case in which the point was raised before title was perfected by final entry, and is authority for the rule, that a settler, who by mistake, erects his dwelling outside his claim, but on discovery of his error removes to his claim, has resided on his claim from the first. While these cases seem to secure such a settler against loss of the tract entered by him, they do not afford any means of saving the improvements placed outside that tract. Amendment of the entry, where that is practicable, seems the only recourse.

CIRCULAR OF JANUARY 8, 1878.—In Fister *v.* Boyd, Oct. 9, 1894, 19 L. D., 178, the Secretary adheres to the rule laid down in the circular of January 8, 1878, 4 C. L. O., 167, that the preliminary affidavit is void if executed while the land is covered by an existing entry. Previous cases to the same effect are: 5 C. L. O., 21; 1 L. D., 164; 3 L. D., 320; 14 L. D., 127; 17 L. D., 529; 16 L. D., 130; 17 L. D., 345.

NOTICES SENT BY MAIL.—In Dreesen *v.* Porter, 19 L. D., 195, notice had been sent to Dreesen at the post office designated by him as his address in his entry papers; he alleged that he had never received such notice and that his proper address was elsewhere, and therefore he sought to have his appeal heard, though taken out of time. *Held*, that the failure to receive notice was due to the party's own laches, and relief could not be afforded. The decision cites Jno. P. Drake, 11 L. D., 574, where a party had given a wrong address, and Smith *v.* Fitts, 13 L. D., 670, where a wrong address had been given by the party's attorney. In Johnson *v.* Hill, 14 L. D., 319, a party on leaving his original address requested the postmaster to forward his mail; this the postmaster failed to do, it was held negligence on the part of the party, who should have notified the local officers of his change of address. So where the party failed to notify anybody of his change of address: U. S. *v.* Dana, 18 L. D., 161.

But a party is not bound by notice sent to an address which he never gave or authorized to be given: Ayers *v.* Annis, 13 L. D., 225; nor when notice was sent to party at the address originally given, but the local officers had later correspondence from which they should have known a change of address: Sweetzer *v.* Moore, 10 L. D., 555. The due transmission of notice must appear affirmatively: Harris *v.* Llewellyn, 18 L. D., 439; there is no presumption that the post office nearest the land is an entryman's proper address: Quam *v.* Brown, 10 L. D., 664; but the post office named in the entry papers is the proper address if no other is given: Leimbach *v.* Lane, 9 L. D., 135.

DATES IN CONTEST AFFIDAVITS.—It will be remembered that in Parker *v.* Castle, 1 L. D., 84, it was held, with stress and some little sarcasm, that a date is essential to the validity of a contest affidavit. In Gebhard *v.* Conlon, 11 L. D., 346, on the other hand, the objection that such an affidavit was not dated was pronounced "purely technical and of no force." No reference was made to the earlier ruling. The position of the present administration on this point is defined in Young *v.* Malka, 19 L. D., 210, wherein it is held that a date is unnecessary and it is added that Castle *v.* Parker is in effect overruled by Gebhard *v.* Conlon.

AUTHORITY OF ATTORNEYS.—An attorney's appearance being entered, he must be held to be employed to the end of the case

for all the purposes of the case, unless notice of his discharge is duly given. An attorney is empowered by his employment to dismiss a contest, even without the knowledge of his client: Peacock *v.* Shearer, 19 L. D., 211. But not to enter into a compromise, unless with specific authority: James *v.* Koons, 19 L. D., 266.

Desert Land Entries.—An entryman under the act of 1877, who is in default under that act, may take advantage of the amandatory act of March 3, 1891: Forsythe *v.* McClurken, 18 L. D., 252; but this right will be defeated by a contest brought before the entryman gives notice of his intention to proceed under the act of 1891: Poyntz *v.* Kingsbury, 19 L. D., 231.

In Simeon D. Wyatt, on review, 19 L. D., 247, the Department adheres to its original ruling in the same case, 18 L. D., 99, that an entry under the Lassen County act of 1875, precludes the entryman from claiming another tract under the general act of 1877.

Proof of Fraudulent Intent.—In U. S. *v.* Searles *et al.*, 18 L. D., 258, the Department adopts the ruling of the Supreme Court in U. S. *v.* Budd, 144 U. S., 154, that land is subject to entry under the act of June 3, 1878, if in its present condition it is substantially unfit for cultivation by reason of the timber thereon.

It is further held that the case of Budd does not amount to a holding that a fraudulent intent in one transaction may not be be proven by evidence of fraud in other transactions closely related, and in the Searles case evidence was considered tending to show that the real parties in interest had made other fraudulent entries at about the same time.

Perjury in Land Cases.—In Caha *v.* U. S., 152, U. S., 211, the Supreme Court holds that false swearing in a homestead contest before the register is perjury within Sec. 5392, R. S. Although there is no direct statutory authority for those officers to hear contests involving homestead entries, the rightfulness of such a contest before such a tribunal is recognized in the Acts of May, 14, 1880, July 26, 1892, March 3, 1891, and January 11, 1894; and, besides the Department is held competent to confer authority upon local officers in such cases.

Whether false swearing at a hearing before a notary public, clerk of court, or other State officers having no Federal commission, would be perjury, is not considered by the Court, and is not so clear. The question is as to the power of the Department to confer authority upon such officers. It is settled that final proof may not be taken before officers other than those authorized by statute: Sylvester Gardner, 8 L. D., 483; M. B. De Shong, 11 L. D., 299. But it is held that such officers may act in contest cases: O'Connell *v.* Rankin, 9 L. D., 209; Bushnell *v.* Earl, 17 L. D., 4; and, though an officer may not be competent to take final proof, he may take testimony on a protest against proof: Lehman *v.* Snow, 11 L. D., 539.

In U. S. *v.* Bailey, 9 Peters, 238, it was held that the offense of false swearing might be committed by a false oath before a notary public. The crime charged was a purely statutory offense created by the act of March 1, 1823, and March 3, 1825, both of which statutes are now repealed, the former by omission from the Revised Statutes, the latter by incorporation into Sec. 5392. The opinion in Bailey's case expressly declares that the offense charged was distinct from perjury.

Under a later act, March 3, 1857, it was made perjury to swear falsely "in cases arising under any or either of the orders, regulations or instructions concerning any of the public lands of the United States issued by the Commissioner of the General Land Office or other proper officer of the United States." This provision, which would probably enable the Department to authorize State officers to administer oaths, is repealed by omission from the Revised Statutes.

In the federal courts depositions taken before officers not authorized by Congress to administer oaths are suppressed: Haight *v.* Props, etc., 4 Wash., C. C., 601. In U. S. *v.* Curtis, 107 U. S., 671, it was held that a bank officer did not commit perjury in making a false oath before a notary public, that officer not being authorized to administer oaths under the banking laws, though the Treasury regulations allowed such oaths to be made. In U. S. *v.* Hall, 131 U. S., 50, it is laid down that it is not perjury for a deputy surveyor to make a false oath before a notary; and in U. S., *v.* Reilly, 131 U. S., 58, it is said that a U. S. Commissioner can not administer a binding oath to a deputy surveyor.

Under Sec. 5392, perjury is committed only by false swearing before "a competent tribunal, officer or person." Whether, in view of the doctrine laid down in the cases cited, a State officer can be made a competent tribunal without authority of Congress, is a point for the profession to consider.

We should like every reader of the Book Chronicle to send 25 cents to pay for the same during 1895. We shall make it worth a good deal more, but we want to give a liberal return for the money, and we want to feel that we have an honest, *bona fide* subscription list of patrons who are sufficiently interested to pay the small sum named, and who would like to feel a sense of ownership in the little paper.

The Bureau of Education has engaged Mr. Appleton Morgan and Mr. L. L. Lawrence to compile a "Directory of American Literary Societies," which the Bureau will print during the coming year.

A new edition of the Rules of the U. S. Supreme Court has been published, but there are no changes apparent.

BOOK REVIEWS.

ABNORMAL MAN.—Being essays on education and related subjects, by Prof. Arthur MacDonald. Second edition. W. H. Lowdermilk & Co., Washington, D. C. $2.00.

This book was originally published by the Bureau of Education, but the great demand quickly exhausted the edition. This new edition comes in response to an unsatisfied call. The book is unique in its character, and important in its quality, as the articles are from the pens of able students who deal plainly and scientifically with the delinquent classes, and open up to the reader's gaze the origin and inspiration of crime, insanity, imbecility, etc. It will accomplish great good and do much towards eliminating or repressing the criminal classes. Mr. MacDonald has written two other books, *Criminology* and *Le Criminel Type*, the latter dealing with Jesse Pomeroy, the boy torturer, and Piper, "the brainer," and Jack the Ripper, of London. As a psychologist Prof. MacDonald stands very high, and his work is very creditable.

A RARE UTAH BOOK.—The editor of the BOOK CHRONICLE has recently come into possession of a copy of the Statutes of the Territory of Utah passed by the first annual and special session of the Legislative Assembly of the Territory of Utah, in 1851.

This was a most interesting period in territorial history, as it witnessed the conversion of Brigham Young's State of Deseret into the U. S. Territory of Utah, the elevation of the great Mormon leader to the position of Governor by the President's appointment, and the appearance in the Legislature of Willard Richards, Heber C. Kimball, Orson Spencer, Geo. A. Smith, David Fullmer, W. W. Phelps, and other of the celebrated leaders in the defiance of the authority of the U. S. which followed a few years later. Only a small edition of the book was printed, and it is extremely scarce now. It should find its way into a good library, and we shall be glad to answer queries regarding it.

MISS TESSA L. KELSO, Librarian of the Los Angeles Public Library, has just issued an extremely interesting report of the work of the library for the past year. For a six-year-old establishment it is unique, and the management is superb. For the year 489,086 books were circulated, the daily average for ome use being 1,360. The library is open om 6.30 a. m. to 9.30 p. m. week days, and the reading rooms on Sundays and holidays from 1 p. m. to 9 p. m. Miss Hasse has catalogued and arranged the 5,000 Vols. of Government publications, and can give points to a good many librarians as to the value and utility of this excellent class of books.

THE 1894 EDITION of the Naval Intelligence Bureau, General Information Series, Vol. XIII, has recently made its appearance, having been delayed some months by difficulties in securing the necessary plates. The demand for this work has been unusually large this year, as all matters pertaining to the Navy have become of general interest.

THE Treasury Department has distributed to the Internal Revenue Collectors throughout the country copies of the law and regulations relating to the collection of the income tax.

THE Library Association of the District of Columbia has undertaken to secure a union list of all the periodicals now in the libraries of the City of Washington.

OUR readers of the legal profession will find the "notes on recent decisions" of the General Land Office of great value, and as they are not to be promptly had elsewhere the subscription price of the BOOK CHRONICLE will be the best investment an attorney can make, if he has any interest in Land Office matters. For 25 cents a year a vast amount of information is given.

COMMISSIONER LAMOREUX recommends a rule for the General Land Office, whereby provision is made for compelling witnesses to attend and testify at hearings in public cases. This suggestion could not be urged too forcibly. It is a piece of monumental injustice to hold a claimant of public land conclusively bound by the decision of the Land Department on the parts of his case, when he has no legal means of presenting those parts. As the law now stands litigants must depend upon personal friendship for their testimony or must buy it. In either case the evidence is affected by a sort of presumptive suspicion and decisions based upon such evidence can never inspire that confidence which should attach to judicial action in affairs of such importance.

THE publication of Hickox's Monthly Catalogue of U. S. Government Publications has been discontinued. The index for 1893 is in the printers hands, and the back numbers will be ready in a short while to complete the series for ten years.

List of Late Books, Documents, etc., issued by Congress and the various Departments of the Government. This is intended to be a description of only the more important of such publications.

1556 **Abnormal Man.** Essays on Education and Crime and Related Subjects, with digests of literature and a bibliography, by Authur MacDonald; 8vo, cloth, 1895. 2.00

1557 **Agriculture.** *Chemistry.* Proceedings of the Eleventh Annual Convention of the Association of Official Agricultural Chemists held at Washington, August 23, 24, and 25, 1894; 403 pp. .75

1558 ———*Chemistry.* Bul. No. 41. Report on the extent and character of Food and Drug Adulteration, by A. J. Wedderburn; 64 pp. .35

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1560 ———*Entomology.* Vol. VII, Nos. 1 and 2. Insect Life. Each. .50

1561 ———*Experiment Stations.* Bul. No. 15. Handbook of Experiment Station Work. A popular digest of the publications of the Agricultural Experiment Stations in the U. S.; 411 pp. 1.00

1562 ———*Experiment Station Record.* Vol. VI, Nos. 2 and 3. Each. .35

1563 ———*Farmers' Bulletin, No. 20.* Washed Soils: How to prevent and reclaim them; 22 pp. .20

1564 ———*Same.* No. 21. Barnyard Manure, by Beal; 32 pp. .20

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1576 **Appropriations, New Offices, etc.** Statements showing appropriations of 53d Congress; new offices created and salaries thereof; salaries omitted and reduced; salaries increased; chronological history of regular appropriation bills; imp. 8vo, paper, 589 pp. [sm277b53]. 1.00

1577 **Armor Contracts.** Violation of; report and evidence submitted by the Committee on Naval Affairs (H. R.), on investigation of armor plate contracts made by the Government with the Carnegie Steel Company [hr1468b53]. 1.50

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1579 **Banking and Currency.** Report of the House Committee, together with the hearings thereof on House bill 8149 amending the laws relating to National Banks; 371 pp., unbound [hr1508c53]. 1.00

1580 ——— Congres Geologique International. Compte Rendu, de la 5me session. Washington, 1891. imp. 8°, 529 pp. Illustrated, unbound. Part in French, part in English. [hm107b53]. 2.50

1581 **District of Columbia,** Annual Report of the Commissioners, 1893, including the Engineer's report on asphalt block and sheet paving, cement, bricks, stone, concrete, sewers, terra cotta, plumbing, street railways, etc.; 1047 pp, colored statistical maps of the city, etc. [hr1pt7b53]. 1.50

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GENERAL LAND OFFICE DEPARTMENT.

THE PROPOSED LAND COURT.—In his annual report, Mr. Secretary Smith recommends the creation of a non-partisan court to relieve the Commissioner and the Secretary of the duty of deciding litigated cases arising under the public land laws. He notes that, while these cases are thereotically decided by the Commissioner and the Secretary, it is in fact a physical impossibility for either of those officers to examine personally the large number of decisions which he must sign, there being between 3,000 and 4,000 cases which go through the Commissioner's hands in a year, of which about 2,000 are appealed to the Secretary. In a great measure, therefore, the decision of the litigated business connected with the public lands is the work of law clerks in the office of the Commissioner and of assistant attorneys in the office of the Secretary. Mr. Smith thinks that such a court would render it possible to dispense with at least one-half of the assistant attorneys in the office of the Secretary.

In pursuance of the scheme suggested in in his report, the Secretary invited the Land Attorney's Association of this city to cooperate with him in the preparation of a bill looking to the end proposed, and in December last such a measure was formulated for submission to Congresss. The plan embodied in this bill is to establish in the General Land Office three boards of three members each, and in the Secretary's office, one board composed of five members. These members are to be designated by the Secretary from the employees of the Department, are to receive the salaries paid to them respectively when appointed, and are to continue in office six or eight years. They are to have jurisdiction in all contested cases. The decisions of the boards in the Land Office are to have the same force as now belongs to decisions signed by the Commissioner, and appeal lies in every case, on the law and the facts, to the appellate board in the Secretary's office. The decisions of the appellate board are to be the final adjudication of the executive department. Provision is made for appeal from the decisions of the appellate board to the Court of Appeals of the District of Columbia and in certain cases to the Supreme Court of the United States.

The proposed scheme offers two advantages over that now existing: It affords promise of oral agreement and opportunity to try a case in open court, and it gives the benefit of judicial action on land cases before the issue of patent. To this extent it will be acceptable to the bar and advantageous to claimants.

It seems to us, however, that the proposed measure is open to some grave objections. It does not profess to accomplish what the Secretary declares to be the *desideratum*, the creation of a non-partisan court. The proposed boards are not non-partisan, because they are subject to change with the mutations of politics, neither do they constitute a court, because their membership is to be filled from employees of the Department. Their functions and their jurisdiction are only what are now exercised by executive officers, and the boards are essentially creatures of the executive—all of which facts, and others, deprive the proposed tribunals of any judicial character. Again, the jurisdiction of the boards is limited to contested cases, while *ex parte* cases remain as now to be passed upon by the regular clerical force. The settler who is so unfortunate as to have no adversary is deprived of whatever advantage lies in the new system of adjudication, and the grave questions and important interests arising under grants to States and railroads are excluded from the attention of the boards, unless in case of contest. As cases arising under this class of laws will be sometimes *ex parte* and sometimes *inter partes*, there will be two tribunals passing upon identical questions with coordinate authority and probable diversity of opinion, with the result of producing conflicting lines of decision. The new system does not professs to save any expense, neither does it promise to expedite business. On the contrary, the substitution of three boards for twenty or thirty individuals in the Land Office, and of one board for fifteen or twenty assistant attorneys in the Secretary's office must inevitably retard business, unless some additional plan is devised to eliminate questions of fact before cases are taken to the boards, thereby leaving the boards to deal only with the questions of law. It is not believed that anybody would be satisfied to have the Commissioner's findings of fact made final, unless the methods of procedure in his office were radically changed.

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PUBLIC LAND CASES—NOTES ON RECENT DECISIONS.

[Edited by CHARLES A. KEIGWIN.]

RAILROAD LANDS.—Under the Railroad Forfeiture Act of 1890, the rights of an actual settler under Sec. 2, are in all cases paramount to those of a purchaser or licensee of the railroad company under Sec. 3. Such appears to be the holdings in St. Clair *vs.* Brandenstein, *et al.*, decided March 18, 1895; 20 L. D., —— Brandenstein and Godchaux had been in possession of the land for about twenty years. The fact that they had a license from the railroad company appears to be assumed in the decision. They had fenced the tract, and the legality of their fence had been affirmed by the U. S. Circuit Court in U. S. *v.* Brandenstein, 32 Fed. Rep. 738. See also U. S. *v.* Douglas. 22 Pac. Rep. 92; U. S. *v.* Osburn, 44 Fed. Rep., 29. St. Clair entered within their fence in 1886, without license from the railroad company and against the will of the defendants, and maintained settlement, although the defendants obtained judgment of ejectment against him in the local court. The land was forfeited in 1890. The Department awards the land to St. Clair on the ground that his settlement right must prevail over that acquired from the railroad company and occupation under license.

That one who has occupied and improved land within the Southern Pacific grant, in accordance with the terms in the circulars issued by the company, is a vendee under an irrevocable contract of sale, is held in Terry *v.* S. P. R. R. Co., 70 Cal,, 484.

Under the railroad adjustment act of March 3, 1887, the right of a purchaser to perfect title under section 5 is not defeated by an adverse homestead claim originating after the purchase under which no settlement right is shown: Hayden *v.* Montgomery, 20 L. D., 63.

The case of James. M. Dewar, 19 L. D., 575, Dec. 24, 1894, holds that railroad lands forfeited under the act of Sept. 29, 1890, are not by said act dedicated exclusively to homestead entry, but that, after the claims provided for by the act are satisfied, the residuary lands are subject to entry under the land laws generally. The decision expressly overrules Sec. 2 of the circular of Dec. 24, 1890, 11 L. D., 625, and, by implication, the case of Harry Savage, 15 L. D., 292, in which it was held that such forfeited lands were not subject to timber culture entry because otherwise provided for by the act of forfeiture.

PREMATURE ENTRIES.—The same case holds that Dewar's timber culture entry, though made prior to forfeiture and while the land was reserved in aid of the grant to the railroad company, "will be allowed to stand, in the absence of any adverse claim, as having attached at the date when the reservation was removed from the laws involved." In support of this ruling are cited:

Thurue *v.* R. R., 14 L. D., 545; Richard Griffin, 11 L. D., 231.

This ruling is unquestionably in accord with the almost unanimous prior holdings of the Department, So far as we can ascertain, the rule that an entry invalid in its inception is validated by removal of the invalidating cause, is disregared in only one instance: Campbell *v.* Jackson, 17 L. D., 417; S. C. on review, 19 L. D., 277. In that case Jackson had located a warrant on land within granted limits of a railroad, having first taken the precaution to procure and file a waiver of the company's claim under the grant. The location was approved by the Commissioner upon this relinquishment. Eight months after location the land was forfeited and restored to the public domain with Jackson's entry subsisting and approved. Eighteen months later, the entry being through that period unimpeached and unattacked, an application to enter the land was made by Campbell. The Department held the location void because not made while the land was segregated; that it was not validated by the restoration; and that it could be disregarded in the collateral proceeding on Campbell's application.

There would seem to be some difficulty in reconciling this case with that of Dewar, *supra*.

In Oscar Sassin, 20 L. D., 12, an entry erroneously allowed upon reserved land was allowed to stand upon release of the land from suspension.

OKLAHOMA LANDS.—In the cases of McManus *v.* Burrus, and Hartshorn *vs.* Young, decided in the fall of 1894, Commissioner Lamoreux held that under the terms of the Presidential proclamation opening the Cherokee Outlet to settlement on Sept. 16, 1893, it was lawful to start from the south side of the Chilocco Reservation. This was on the theory that the hundred foot strip set apart for intending settlers extended around that reservation.

In the case of Cagle *vs.* Mendenhall, decided Feb'y 5, 1895, the question was presented whether the same strip lay on the eastern side of the land actually opened to settlement, and whether the territory might lawfully be entered from the Indian reservations on the east. The Commissioner holds that such entrance was lawful. The decision is very elaborate, covering 20 type written pages. It holds that the term Cherokee Outlet, as used in the proclamation, is identical with "country to be opened for settlement," and does not designate the strip bounded on the east by the 96th meridian.

The case of Parker *vs.* Lynch, 20 L. D., 13, decided on review Jan'y 11, 1895, merits consideration of the bar, not merely because of the questions peculiar to Oklahoma but on several other accounts as well.

The agreed facts are that Lynch with several others, went upon the hundred foot strip in K county during the night of September 15, 1893, having induced the probate judge of that county to meet them there on the edge of the county, and executed applications to enter several tracts within the country to be opened to settlement at noon on the next day, the probate judge administering the necessary oaths. The applications and affidavits were delivered to one, Prior, who immediately entered upon the prohibited territory, traveled across the country to Perry, the seat of the land office, where he deposited the papers in the post-office addressed to the R and R. with special delivery stamp. By this means the applications reached the local office at 1:20 p. m., about two hours before the first mail arrived from K county.

On this state of facts, the decision holds that Lynch's entry is valid, and dismisses several applications to contest it.

In Guthrie, T. S., *v.* Paine, 12 L. D., 653, it was held that one who remained outside the territory could not take advantage of priority obtained by means of an agent who was unlawfully within the territory. Similar holdings are Blanchard *v.* White, 13 L. D., 66; Guthrie *v.* Paine, on review, 13 L. D., 562; White *v.* Marvel, 18 L. D., 560; these earlier cases are not referred to in the last decision. The rule should be that one may not lawfully do through an agent what he may not do himself. Whether the holding in Parker *v.* Lynch does not break in upon this principle is worthy of consideration.

Another rule to which an exception, or at least a qualification, is made in this case is that an entry,, made upon papers executed before the land is subject to entry, is void. This was first laid down in Hiram Campbell, 5 C. L. O., 21, in which case the Commissioner was instructed to formulate a circular on the subject. Such a circular was issued on January 8, 1878, 4 C. L. O. 167, by which local officers were instructed not to take or hold in their possession papers drawn up before the land was subject to entry; and in pursuance of this rule entries based on papers prematurely prepared have uniformly been cancelled: 1 L. D., 164; 3 L. D., 320; 14 L. D., 127; 17 L. D., 529; 16 L. D., 130; 17 L. D., 345; 19 L. D., 178. The rule was applied, after careful consideration and review of the authorities, including Lansdale *v.* Daniel, 100 U. S., 113; in the case of Smith *v.* Malone, 18 L. D., 482. In Parker *v.* Lynch, it is held that Smith *v.* Malone does not apply because in that case the application only was rejected, while the claim of Lynch had passed into the status of entry. The distinction is based on a correct statement of fact, but it overlooks the numerous instances wherein actual entries of long standing have been cancelled on account of being based on application papers prematurely executed. If the Lynch entry, based on affidavits executed 12 hours before the land was subject to entry, is valid, the circular of 1878 must be held to apply only to applications not yet allowed; and if an application based on premature papers is once accepted by the R. & R., though in ignorance of the defect, it will then be too late to raise a question as to the proper execution of the papers. The same view of the circular is laid down in Selig *v.* Cushing, 20 L. D., 57.

The rule does not apply to invalidate applications made for land which has been restored to the public domain by act of Congress, but not yet formally made subject to entry by order of the land office. Boyd *v.* Maley, 19 L. D., 570.

Corroborative Affidavit.—The case of Parker *vs.* Lynch, *supra*, adds to the stringency of the rule requiring corroboration of contest affidavits. The contestant set out his charges on information and belief, and the corroborant swore that he had read the affidavit and knew the statements therein made to be true. It was said that this affidavit was of the most general character, not even a single fact being stated within his (corroborant's) knowledge which would support any of the charges."

This decision should be compared with Hyde *v*, Warren, 14 L. D., 576, and Epps *v.* Kirby, 15 L. D., 300.

State Selections.—Under the provisons in the Act of July 3, 1890, requiring indemnity selections to be made "in legal subdivisions of not less than one-quarter section," the State may select fractions of quarter-sections if the several fractional tracts make a compact body of 160 acres. The term "quarter-section" is used as a measure of quantity and not to designate a technical subdivision.

State of Idaho, 20 L. D., 170.

Mineral Surveyors.—A deputy mineral surveyor need not be a resident of the land district for which he is commissioned, and he may hold commissions for several districts.

Chas. W. Helmick, 20 L. D., 163.

TIMBER AND STONE LAND.—Under the act of Aug. 4, 1892, as under that of June 3, 1878, timber or stone lands are not subject to entry if they have been offered prior to date of the application to enter, although they may have been unoffered at the date of the act.

Fred V. Jones, 20 L. D., 129.

DESERT LANDS.—The act of fencing may be shown as an expenditure, and authorized under section 5 of March 3, 1891; and the failure of the entry man to file a map, as required by section 4 of that act may be cured, in the absence of an adverse claim by subsequent compliance with the law.

Jno. W. Bill, 20 L. D., 61.

RELINQUISHMENTS. In Bannister *v.* Johnson, 19 L. D., 509, it is held that the purchase, by a contestant, of the defendant's relinquishment, outstanding in the hands of a third party, does not necessarily affect the contestant's good faith. The case is distinguished from Butman *v.* Barrister, 13 L. D., 463, by the fact that in the latter case the contestant himself held the defendant's relinquishment at the initiation of the contest, and withheld it for the purpose of gaining time; no rights are acquired by such a contest; similar rulings are: Eva Brown, 3 L. D. 150; DeHaven *v.* Gott, 28 L. D., 144; a contestant acquires no right if his proceedings are brought merely for the sake of delay; De Mars *v.* Donahue, 12 L. D., 113; McMichael *v.* Murphy, 20 L. D., 147, 152.

PRACTICE.—The Department will not consider the constitutionality of a statute: Wenzel *v.* R. R., 1 L. D., 333; Streeter *v.* M. K. & T. R. R., 2 C. L. L., 836; Snow *v.* Northey, 19 L. D., 496.

Notice of decisions must appear affirmatively: Harris *v.* Llewellyn, 18 L. D., 439; Prouty *v.* Condit, 10 L. D , 472.

Certiorari will be allowed where appeal has been denied on the ground that it is taken out of time and the record does not show notice of the decision to the appellant: Prouty *v.* Condit, 19 L. D., 472; but is denied where appeal was properly refused, as where the appellant was a stranger to the record; C. N. Felton, 20 L. D., 116; where it does not affirmatively appear that injury was done the petitioner on the merits: J. P. Cummins, 20 L. D., 130; or where the petitioner has not shown due diligence in the prosecution of his claim. Wm. Minto, 20 L. D., 137.

The question as to when cancellation takes effect, whether at date of the Departmental decision, or of the Commissioner's promulgation thereof, or of the receipt at the local office of the letter cancelling the entry, is set at rest, for the present at least, in McDonald *v.* Hartman, 19 L. D., 547. The previous rulings are reviewed and it is held that a Departmental order of cancellation takes effect as at its date. This establishes the doctrine of Lough *v* Ogden, 17 L. D., 171; Perrott *v.* Connick, 13 L. D., 568; Coder *v.* Lotridge, 12 L. D., 643; and Calhoun *v.* Daily, 14 L. D., 490.

THE PRINTING BILL.

The much vaunted new printing law enacted by Congress has at last been put into operation, and it has already proven to be a dispiriting fraud. For years the projectors and advocates of this law have dinned into the ears of Congress and the public whole volumes of lyric poetry in praise of the wisdom and beauties of the printing bill. Newspapers and magazines were lured into singing the same song; and column editorials were written by enthusiastic editors who had never read the bill; hopeful librarians were generous in their praises of it because of the things it did not contain, and a few Congressmen spouted as to the millions of money to be saved, but were unable to give an intelligent answer to a single question asked them of a practical nature. But by hook and by crook the bill became a law.

Lo, and behold! In less than thirty days after its enactment this iron-bound digest of all the wisdom of Congress is found to be unsatisfactory, and one of its important provisions is killed in order that members whose terms have expired might gobble all the documents belonging to their successors up to the meeting of Congress next December. Of course, if the new Congress was in session it would stop the game, but it isn't; and so, there you are.

Some clear idea may be had of this law by noting a few of the things it does and does not do:

It does not furnish a public library with any document not heretofore supplied.

It does not abolish a single office in any department or in Congress.

It does provide for eight additional superintendents of documents and for an unlimited number of additional clerks.

It does not abolish the office of Superintendent of Documents provided for by the old law, but maintains that office for the sole purpose of distributing the publications of the eleventh census.

It authorizes the printing of 8,000 copies of eulogies on deceased Senators, Representatives and Delegates (50 to be bound in full morocco, with gilt edges, for the family of the deceased), with an engraved steel portrait, at a cost of about $4,000, in each case; and there is no more morality or justice in this than there would be in erecting

a $4,000 marble monument over the grave of the deceased and inscribing all his newly discovered virtues in letters of gold. This is one of the most glaring and indefensible diversion of public funds known to the people.

It provides that the government shall supply each Senator and Member of Congress with a complete set of War Records for his own use.

It provides that "all Members, Members-elect of and Delegates and Delegates-elect to Congress" shall have the franking privilege. The Senators seem to have lost their grip just here, and may have to pay postage on their letters.

It gives each Senator and Member about 1,000 copies of the Agricultural Report each year.

It gives some heads of scientific bureaus about half enough copies of their valuable publications to supply the scientists who have supplied the matter contained therein.

It supplies 1,200 copies of the abridged messages and documents; about 11,500 more than necessary; while it limits the Consular Reports to 1,500 copies, not one of which is allowed the State Department. There should be 20,000, and the State Department should have 10,000 copies for distribution.

It provides for supplying documents without cost to people who do not ask for them, and for selling same to those who do ask for them.

Under the guise of furnishing the people of the country with reading matter of all kinds for the public advancement, it really loads the guns of the gentlemen who made it a law with ammunition enough to enable them to fire a charge of books, maps, garden seeds, &c., into the house of every constituent as a reminder that he is their good friend, and still on deck.

We might continue this enumeration of this delightful law which has been applauded up and down the country under an influence difficult to comprehend. We protested against it and pointed out its injustice and defects to the committee, but the committee did not want knowledge; it only wanted somebody to applaud its wisdom, born of an hour, and too frail to be permitted to venture outside the committee room. The committee knew it all! It's main object was to "prevent duplication" in the distribution of documents. This was its war cry. Therefore it appointed eleven superintendents of documents, having no communication with each other! And there's your committee's wisdom; and there's the law to prove it.

Great is your reformer! When he reforms things of which he is ignorant!

—The death of Mr. Charles Lanman a few weeks ago brought a weight of sorrow to many hearts besides those of his own household. Of all the men we have ever known, Mr. Lanman was the purest-minded, gentlest-hearted and most unpretentious. His modesty was only equaled by his ability and purity of soul and mind. He was a limpid writer whose phrases were formed after his own simplicity of character, and his books were true exponents of the charms of his character. He was an artist whose love of nature and not of pelf guided his brush, and led him to portray the beauties of his haunts. To his pen and brush Block Island owes its celebrity, he having discovered its charms and told of them to the world. His books of travel and fishing and hunting will ever lure the enthusiastic angler, he being a past master in the contemplative art. We buried a part of our heart with this charming gentleman, whom we loved and revered.

A studious critic says that no language supplies so many illustrations of the art of carrying things too far, as the German. That language has seven deadly sins, viz:

1 Too many volumes in the language.
2 Too many sentences in a volume.
3 Too many words in a sentence.
4 Too many syllables in a word.
5 Too many letters in a syllable.
6 Too many strokes in a letter.
7 Too much black in a stroke.

To kill a good book is a crime. To make a bad book is a villianous crime; and the author and manufacturer of a corrupting book should be sent to solitary confinement and deprived of every scrap of printing save their own filthy products,

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—Greater New York is cooking up a Greater Library by rolling Lenox, Astor and Tilden into one. It's a blending of good spirits.

List of Late Books, Documents, Etc., issued by Congress and the various departments of the government. This is intended to be a description of only the more important of such publications.

1626 Agriculture. *Botany.* American Ginseng; its commercial history, production, and cultivation, by George V. Nash, 22 pp. .20

1627 ———Contributions from the U. S. National Herbarium. Vol. I, No. 9, issued January 31, 1895. Report on Collection of Plants made in the States of Sonora and Colima, Mexico, by Dr. Edward Palmer, in the years 1890 and 1891, by J. N. Rose, 8°, paper, pp vi, 293 to 434, title page, table of contents and list of illustrations. .75

1628 ———*Chemistry.* Bulletin 44. Sweet Cassava; its culture, property and uses, by H. W Wiley; 8°, 16 pp, plates. .25

1629 ———*Entomology.* Bulletin No. 33. Legislation against Injurious Insects. A compilation of the laws and regulations in the U. S. and British Columbia, by L. O. Howard, 46 pp. .25

1630 ———Periodical Bulletin, July, 1888. Vol. I, No. 1. Insect Life; 8°, 32 pp. .25

1631 ———*Experiment Stations.* Record. Vol. VI, No. 5. .50

1632 ———*Farmers' Bulletin*, No. 23. Foods: Nutritive Value and Cost; by W. O. Atwater; 8°, 32 pp. .20

1633 ———*Ornithology and Mammalogy.* North American Fauna, No. 8. Monograph revision of the Pocket Gophers, family Geomydæ; by Dr. C. Hart Merriam; 8°, 258 pp., 19 plates, 3 colored maps. 1.25

1634 Army Register, 1895, [Official], giving rank, pay, assignment, location and history of all officers in the U. S. Army, as well as general information as to organization, personal services, etc. 1.00

1635 Berlin Silver Commission, 1894. Part I Proposals submitted. Report of the proceedings, to which is appended the report of the proceedings of the International Bi-metalic Conference at London, May 2 and 3, 1894; 137 pages, [sm274b53]. .50

1636 Census. Eleventh Census of the U. S., 1890. Report on the Insurance Business in the U. S. Part I. Fire, Marine and Inland Insurance, by C. A. Janny. 4°, cloth; x, 1127 pp. 2.50

1637 Commerce and Navigation of the United States for the year ending June 30, 1894; showing imports and exports of gold, silver and merchandise by countries and customs districts; tonnage and nationality of vessels, etc,; 4°, cloth, 840 pages. 2.00

1637½ Compiled Statutes in force in the District of Columbia, including acts of the second session of the 50th Congress, 1887–89. Compiled by Wm. Stone Abert and Benjamin G. Lovejoy. Imperial 8°, sheep. 4.00

1638 Comptroller of Currency. Annual Report, 1893–'94, Vol. I. Containing Digest of National Bank Decisions, etc.; 8°, 425 pages, cloth. 1.25

1639 ———Annual Report for 1894. Vol. II. The Condition of the National Banks of the U. S., 1332 pp. 1.50

1640 Consular Reports. Reports from U. S. Consuls abroad, February, 1895. No. 173. .50
CONTAINS: Sewerage in Foreign Cities; German exports of Iron and Steel; banking system in Germany; manufacture of anti-diptheric serum; labor arbitration in France; a petroleum heating apparatus; gas-motor street car in service.

1641 ———March, 1895. No. 174. .35
CONTAINS: Labor in France; technical and trade schools; breadfood trade with the United States; machine rolled chains; German commercial credit in Russia, etc.

1642 Cotton Consumption and Production. Report of the Committee on Agriculture and Forestry on condition of Cotton Growers in the United States, the present prices of Cotton and the remedy; 2 vols. [sr986pt2c53] paper 1.00, cloth. 2.00

1642½ Court of Claims Reports. Nott & Hopkins. Vol. 29, covering cases decided in Court of Claims of the United States at the term of 1893–94, with abstracts of decisions of the Supreme Court in appealed cases from October, 1893, to May, 1894. 8°, law sheep. 3,00

1643 Customs Duties Refunded. A detailed statement of refunds of customs duties, etc., for year ending June 30, 1894, with decisions of the courts. 79 pages. .35

1644 Digest of Decisions and Precedents of the Senate and House of Representatives, relating to their powers and privileges respecting their members and officers, and to investigations, contempts, libels, contumaceous witnesses, expulsions, writs of habeas corpus, etc., with decisions of the Supreme Court and other courts relating thereto, compiled by Henry H. Smith· 8°, 675 pages, [sm278b53], unbound 1.50, cloth. 2.00

1645 Education. Circular of Information, No. I, 1894. History of Higher Education in Rhode Island, by W. H. Tolman; 8°, 210 pp.; illustrations of Brown University. .75

1646 Finances. Annual Report of Secretary of Treasury for year 1894. Contains Coins and Coinage—precious metals, loans and currency, national banks, customs administration, internal revenue, etc., 992 pages, paper, 1.00, cloth, 1.50

1647 **Fisheries.** Eighteenth Report of the Commissioner of Fish and Fisheries, for the the year ending June, 1892. 8°, 528 pp.; 47 plates. 1.00

1648 **Immigration** and Passenger Movement at ports of the United States during the year ended June 30, 1894; 77 pp. [he6pt2c53]. .25

1649 **Interstate Commerce.** Eighth annual report of the Commission, December 1, 1894; embracing points decided by the Commission since its organization; 271 pages. .75

1650 ———Sixth annual report of the statistics of railways in the United States for year ending June 30, 1893; 620 pages, and income account of railways; 54 pages. The above three parts in one book; paper, 1.00, cloth 1.50

1651 ———Preliminary report on the Income Account of railways in the United States for the year ending June 30, 1894; 8°, paper, 59 pp. .25

1652 **Interior.** Report of the Secretary for 1894, Vol. I, Public Lands; 8°, 531 pages. .75

1653 **Internal Revenue.** Report of the Commissioner year ending June 30, 1894; 8°, 397 pp. .75

1654 **Navy.** Report of the Secretary of the Navy for year ending June 30, 1894; embracing naval academy, yards and docks, naval militia, equipment, ordnance, steam engineering, etc. 8°, 683 pages, illustrations of torpedoes. 1.00

1655 **Navy Register, 1895.** Official register of the commisioned and warrant officers of the navy of the United States and of the marine corps to January, 1895. .75

1656 **Navy War Records.** Official Records of the Union and Confederate Navies in the War of the Rebellion. Series I—Vol. 1 Operations of the Cruisers, Jan'y 19, 1861 to Dec, 31, 1862; plates, unbound 50 cents; half morocco, 2.00
It is said there will be 19 volumes of this work.

1656½ **Opinions** [official] of the **Attorneys-General of the U. S.**, advising the President and heads of Departments in relation to their official duties, and expounding the constitution, treaties, and public laws of the country. Edited by Edward A. Hibbard. Vol. XX; 8°, law sheep. 3.00

1657 **Patent Office Photo-lithographic Printing.** Testimony and Report of the Committee, 207 pages [sr10470c53]. .50

1658 **Pension Cases.** A Digest of the laws, rulings, orders and decisions relating to attorneyship and fees in Pension Cases; by F. E. Anderson, chief of law division, Pension Bureau; 90 pp. .25

1659 **Seal Fisheries.** Regulations respecting fur seals, adopted by the United States and Great Britain, in accordance with the decision of the tribunal of arbitration at Paris, together with correspondence, etc, [se67c53]. 1.25

1660 **Slums of Baltimore, Chicago, New York and Philadelphia.** Special report of Carroll D. Wright, Commissioner of Labor; 620 pages [he257b53]. 1.00

1661 **Statistical Abstract of the U. S., 1894.** Seventeenth number. Finance, mining, commerce, immigration, tonnage, railroads, etc., [he15c53]. .50

1662 **Statistics.** Summary statement of imports and exports of the U. S. for December, 1894; 4°, pp. 581–673. .50

1663 **Tests of Metals.** Report of tests of strength of Structural Material, made at the Watertown arsenal, Mass., on the 400 ton testing machine, year ending June 30, 1891. Steel siege and field guns, mortars, steel and brass ribbon tape, Belleville springs, cold rolled bar, railway axle steel, rivetted points, temperature tests, chain cable, natural stone, brick piers, cordage, etc. 800 pages, illustrated; unbound, $1.25; cloth 2.00

1664 **Tests of Metals** and other Materials for Industrial purposes, for year ending June 30, 1892. Steel guns, square steel wire, hardened and tempered steel, alternate and repeated straining, steel, wrought iron and cast iron, chilled cast iron, railway axles and tires, cold rolled shafting, wire rope, nickel steel wire, rubber buffers, etc., etc. 623 pages, diagrams; unbound, $1.00; cloth. 2.00

1665 **War Department.** Annual report for year ending June 30, 1894—*Ordnance Report* —576 pages.; unbound, $0.75; cloth 1.00

The Congressional Globe for the 3d Session, 53d Congress, is being arranged for the printer, and will make four or five volumes. It will probably be ready for delivery about the first of June.

The laws of same session will not be out before July, and vol. 28, Statutes at Large, is expected to be completed about first of September.

PATENTS, CAVEATS, TRADE-MARKS AND COPYRIGHTS.

(Edited by Hugh M. Sterling, Attorney, Washington, D. C.)

The United States Patent Office stands to-day a usurper of the rights which belong to the Courts. This valuable institution of our Government, to which has has been justly accredited in great measure our industrial progress and the advancement made in the scientific and useful arts, has of late been abandoning its well settled tradition, until nothing now seems fixed or certain from the arbitrary and autocratic government into which it has degenerated by reason of it being placed at the mercy of politics—a spoil for those who barter everything for self-interests.

The inventors of the country do not have to be told of the present condition of affairs. They know it from their own experience. Attorneys are bitter in their denunciations of the assumption on the part of the Patent Office to try those points which, in the judgment, of every fair-minded lawyer, should be left to the Courts which in their greater authority have never been so arrogant towards the right of inventors as is the illiberal Patent Office of to-day, which now reposes in the hands of a large examining corps, composed of men and women of varying abilities and experience, the determination of those subtle points which among themselves they never do, and never can, agree upon.

The theorya dvanced by the Patent Office, as underlying its alleged method of infallibility as to mistakes arising from the granting of patents, is that its present rigid attitude saves the Government and the inventors money by reducing unnecessary litigation. The arbitrary assumption of power seems to be entirely over-looked, while on the other hand the very organization of the Patent Office does not admit the cherishing of such ideals. As a matter of expediency it is not demanded or necessary; as a matter of practicability it is impossible and absurd. With the possible gains in one direction there will be a corresponding loss in the other. The present attitude will work greatly to the discouragement of the poorer class of inventors—which means the majority—and consequently cause the abandonment of many inventions on account of the inability of such inventors to stand the expense of along and tedious prosecution of their applications for patent.

The most that the Patent Office should do in drawing the line as to what does, and what does not, constitute patentability, is to examine cases fairly upon the state of art and with due regard to those principles alone which are firmly established, so that there will be practically uniformity of opinion throughout the entire examining corps, and not the uncertainty that arises from the present arbitrary methods and loose conflicting decisions made by each succeeding incumbent of the Office of Commissioner of Patents. The fact, that, in looking at the probabilities for and against the granting of a patent, the attorney never leaves out of his considerations the question—To what Examiner will the application go? is evidence of the varying standards by which applications are judged.

Try as the Patent Office does to do everything it is wholly unfit for the settlement of many points arising in the determination of the question of invention. There are some things which from its very organization it cannot properly or fairly undertake to do. It does not conclusively establish the right to inventions; it should not with so little feeling of responsibility take any possible rights away.

The prima facie right which exists in a patent had best be abandoned if the Office continues autocratic policy, and the rights of inventors be left to the Courts alone, as they are in England. The Patent Office was originally designed to stimulate inventions, *not to discourage them.*

Caveats.—It is difficult for inventors to understand the value of patents, owing to their ignorance of those fundamental laws which govern the construction of the claims, which are those specific recitals of invention and upon which depend the scope and validity of the patent, but the value and use of a caveat is rarely, if ever, understood by the inventor. He looks at it from the surface view that one would get in reading that section of the ect providing for the filing of caveats, and believes it to be a protection to his rights when time is necessary to perfect the invention. Naturally the inventor thinks that the caveat preserves all his rights pending the filing of an application and while perfecting his invention, but such is not the case.

By virtue of his caveat he is alone entitled to notice from the Patent Office of any application which may be filed within the year covered by the caveat, and which the office may adjudge to interfere with the invention set forth in the caveat. He must then file his application. What then is his standing? He has made a record date which might be of some little value in the course of an interference as a matter of evidence, no more. He has made himself the junior party to the interference and the burden of proof is practically upon him. He must take his testimony first as he is the last to file his application. These objections arising from the filing of a caveat when an application might have been filed, magnify in proportion to the advantages which come from a prior date of filing. Resort to a caveat should not be recommended in view of the office practice, unless the matter be fully considered and no other way be found to secure the little benefit which such a course is intended to give. [*Below this will appear in next issue.*]

☞ If yon have notdone yet so, remit 25 cents for subscription.

The Washington Book Chronicle

AND

BULLETIN OF GOVERNMENT PUBLICATIONS.

Entered at the post office at Washington, D. C., as second-class matter.

Issued Quarterly. 25 Cents per annum. | WASHINGTON, D. C., JULY, 1895. | VOL. II. No. 7.

THE NEW PRINTING BILL.—The provisions of the new printing law are now in force, and its utility will be sufficiently well tested to develop its weak points in time to suggest to Congress next winter the necessary amendments. Mr. Benedict, the Public Printer, has undertaken to make the Bureau of Documents all that can reasonably be expected of it, and it will not be his fault if it fails to meet the highest expectations. Under his administration the Government Printing Office has reached a standard of excellence in its business management and the character of its work far ahead of anything in its past history, and the same careful consideration has been displayed in the organization of the Bureau of Documents.

Mr. F. A. Crandall, of Buffalo, has been installed as Superintendent of Documents, and he being a gentleman of intelligence and methodical business education, has taken care to surround himself with assistants who are experts in the direction of the work to be done, and has demonstrated a talent for executive administration. His choice of Miss Hasse, as librarian, was based upon that lady's wide reputation as the assistant librarian of the Los Angeles Public Library, who knew all about government publications in addition to general library work, and was particularly fitted for the position. Mr. J. H. Hickcox was placed in charge of the indexing, and his long experience in such work together with his intimate familiarity with all government publications, preeminently fitted him for this responsible place. A better choice could not have been made. The other members of the staff have been chosen for their fitness, and the work will be well done.

Many knotty questions will have to be solved before plain sailing is secured, and some features of the law will prove themselves unwise and impolitic, in consequence of which it will become necessary to very materially amend it. These will be developed as work of the office progresses, and eventually it is altogether likely that the law may be worked into an economical and satisfactory piece of machinery.

—THE murder of the Income Tax, which was brought about by the use of the big snickersnee concealed in the U. S. Supreme Court consultation room, has resulted in throwing on the market a pretty big pile of printed paper in the shape of blank returns, etc., for which the Secretary of the Treasury had no further use. Altogether the Congressional provisions for an income have resulted in nothing better than a quite respectable outgo.

THE State Department has now in course of preparation an entirely new edition of the Consular Regulations. It is not likely to make its appearance however, before the next crop of consuls is ready for pulling.

—THE United States Statutes at Large, Vol. 28, covering the laws enacted by the 53d Congress, is now ready for sale.

—THE Public Printer will complete the Congressional Record for the third session Fifty-third Congress, in 5 volumes in about 4 weeks.

—A NEW edition of the Gauger's Manual for Measuring Spirits has been sent to press, and will probably be ready for delivery about the 15th of July.

—IN our last war with Great Britain we had, including militia, 471,622 men. Unless G. B. takes her robber hands off our poor little neighbor Venezuela we should send about a million of men and every ship in the navy down there, and advertise to her that piracy and freebooting are out of date on American soil. This is Mr. Cleveland's chance to make himself solid with all patriotic Americans.

PUBLIC LAND CASES—NOTES ON RECENT DECISIONS.

[Edited by CHAS. A. KEIGWIN.]

OKLAHOMA LANDS.—In Cagle *v.* Mendenhall, 20 L. D., 446; decided May 16, 1895, Secretary Smith réverses the Commissioner, and holds that those persons are disqualified to enter lands in the Cherokee Outlet who entered that strip from the Indian reservations on the east. The proclamation opening the Outlet to settlement was somewhat ambiguous as to the location of the hundred-foot strip on the eastern side, and the Department received numerous inquiries as to whether the run from that side would be permitted. To all these the answer was given that entrance must not be made from the east, because that would involve trespass on Indian lands. The decision adopts the view taken in these answers.

McGregor *v.* McGranahan, 20 L. D., 480, holds that one who was within the Territory of Oklahoma prior to the opening, though lawfully and with permission of the authorities, is disqualified to make entry.

RELINQUISHMENT.—A relinquishment which conforms to the requirements of the Act of May 14, 1880, should be accepted and the entry canceled, though it is not acknowledged: Westenhaver *v.* Dodds, 20 L. D., 365; following Johnson *v.* Montgomery, 17 L. D., 396.

R. & R. DECISIONS.—A decision by one of the local officers, in which the other officer declines to participate because of prior connection with the case as attorney, is not void, but will stand as the action of the local office: Knight *v.* Deaver, 20 L. D., 387. A register or receiver having an interest in the case is disqualified to act upon it: Emblen *v.* Weed, 17 L. D., 220; provision for the trial of such cases is made by Act of January 11, 1894.

FAILURE TO APPEAL.—It is not an excuse for failure to appeal in time, that appellant's attorney was misled as to time by an erroneous notation on his books: Kearns *v.* Baldwin, 20 L. D., 375. So held, also, in Graham *v.* Lansing, 13 L. D., 697. Such an error was held excusable in Dean *v.* Simmons, 15 L. D., 527; but not where motion is made to dismiss: Julien *v.* Hunter, 18 L. D., 153.

NOTICE BY PUBLICATION—TRANSFEREES.—That an affidavit showing diligent effort to make personal service on a transferee, whose interest is of record, is jurisdictional equally as the showing of diligence to serve the entryman, is the novel holding in the case of Neview *v.* Rock, 20 L. D., 380. Heretofore service by mail upon the transferee has been held sufficient and no publication was considered necessary. This case is the more striking because the transferee was a non-resident when he filed his memorandum of interest; that a showing of diligence is not requisite in case of a non-resident defendant is held in Pankonin *v.* Crook, 5 L. D., 455; Jones *v.* DeHaan, 11 L. D., 261. When the contest was brought, the transferee was dead and his representatives had not filed any memorandum showing their interest or whereabouts. In the contest proceedings two attorneys appeared for the transferee; no allegation was made that they were not authorized, but the same two attorneys were employed afterwards to apply for reinstatement of the canceled entry on the ground that the transferees had not received notice. These facts are not noticed in the decision, but the entry is reinstated on the mere ground that there was not proper basis for notice by publication to the transferee.

SPECIAL AGENTS' CASES.—When an entry is held for cancellation on the report of a special agent, the entryman need not apply for a hearing, but may appeal upon the existing record: Patrick Fox, 20 L. D., 468; W. W. Wishart, 13 L. D., 211. But in such a case, the entryman can not obtain a hearing if the decision on appeal should be adverse to him; Severy *v.* Bickford, 15 L. D., 358; 16 L. D,, 135; J. M. Tarr, 7 L. D., 67; Mary L. Tiffany, 7 L. D., 480.

RAILROADS.—Section 2288 of the Revised Statutes, authorizing settlers to convey lands within their claims for railroad right of way purposes, applies to tram roads used in the business of mining, quarrying and cutting timber, and a transfer for the use of such a road does not vitiate the entry: Instructions, 20 L. D. 509.

The Act of April 21, 1876, 19 Stat. at L., p. 35, confirms entries made by actual settlers upon lands within railroad limits prior to the receipt of notice of withdrawal at the local office; but this confirmation is in favor only of such settlers as continue their residence and does not benefit one who settles after abandonment of the original settler; it is purely a remedial statute for the benefit of the individual claimant: Northern Pacific R. R, Co., 20 L. D., 191; reversing R. R. *v.* Burns, 6 L. D., 21.

AMENDED RULE OF PRACTICE.—The following amendment to Rule 43 was promulgated June 1, 1895:

In cases dismissed for want of prosecution, the Register and Receiver will, by registered letter, notify the parties in interest of the action taken, and that unless within thirty days, a motion for re-instatement shall be made, the default of the plaintiff will be final, and that no appeal will be allowed; which notice shall be given as provided in circular, 5 L. D., 504.

If such motion for re-instatement be made within the time limited, the local officers shall take action thereon, and grant or deny it as they deem proper. If granted, no appeal shall lie. If overruled, the plaintiff shall have the right of appeal, the time for which shall be thirty days, and run from the date of written notice to the plaintiff.

PATENTS, CAVEATS, TRADE-MARKS AND COPYRIGHTS.

[Hugh M. Sterling, Attorney, Washington, D. C.]

RECENT BELL TELEPHONE DECISION.—The Patent Office Official Gazette of June 25, 1895, contains in full the decision of U. S. Circuit Court of Appeals, rendered May 18, 1895, in the case of the United States *vs.* The American Bell Telephone Company.

The public is more or less conversant with the general issue of the suit instituted by the United States against the Bell Co., and the general impression is that the Bell Telephone Co., by certain ingenious tricks in patent practice and by taking advantage of the generosity and liberality of our patent system, has succeeded in extending its monopoly of the art of telephony beyond the limit of the Bell Patent, which expired in 1893, and has thereby defrauded the public of its rights to the use and enjoyment of the invention. It is this right of the public, in inventions, that underlies the whole patent system, for all authorities agree that the policy of the patent law is solely to subserve the public and advance its welfare, while the interest of the inventor is entirely incidental.

The telephone is, without doubt, one of the greatest and most valuable inventions made since that of the telegraph, and the public should be much concerned when, after seeing this invention tied up for seventeen years, the life of a patent, and rearing one of the strongest and richest monopolies of the times, they find that nothing worth the having is coming to them, and that the monopoly has very ingeniously extended itself so as to cut the public out. There is just excuse for asking how this can be.

The condition of the patent interests of the Bell Telephone Company, and the manipulation thereof, that made possible the extension of its monopoly beyond the life of a patent, may be briefly stated as follows :

Within a year of the granting of the Bell Patent there was filed an application by Emile Berliner, for what is known as the Berliner Microphone. The Bell Company owned the entire interest in this invention. It is the Berliner invention that has made the invention of Bell practical, and the strange feature of this patent monopoly is that while the invention of Berliner was practically contemporaneous with that of Bell, it has been used during the life of the Bell patent, while the patent for the Berliner invention was not issued until 1891. The Berliner application remained in the Patent Office fourteen years before the patent issued, and thus, if the Berliner patent is sustained, the period of the Bell Telephone Company monopoly will be extended practically that number of years; for during the pendency of the Berliner application the Bell Telephone Company was reaping the benefit of this invention, as by the Bell patent sufficient protection was had as to make it unnecessary to issue the Berliner patent. These are but the working facts of the case; the causes which occasioned the delay in the Patent Office, the various methods pursued by the Bell Company, the charges as to the connivance and cupidity on the part of the Patent Office, are all incidents in the history of this patent monopoly, that have come up from time to time, and which have had the effect of causing the public to cry out against it. Certain it is that the public have known for years of the course taken by the Bell Telephone Company and the end which it was endeavoring to gain thereby.

In the bill brought by the United States, asking that the Berliner patent be declared invalid, it was charged that the patent was void for illegal delay in its issue, and sought to make the Bell Telephone Company responsible for such delay, and in the language of the bill says that, "the wrong and injury perpetrated upon the people of the United States by the issue of said patent, fourteen years after the application therefor, has come about by the design, machination and connivance of said respondent company, and by means of the abuse by it of the generosity and liberality of the Government of the United States."

The bill also alleges that the patent is void on the ground that it is identical with a prior patent issued to Berliner.

In December, 1894, Judge Carpenter rendered a decision in favor of the United States, declaring the patent to Berliner invalid. This was a great triumph for the public and seemed to vindicate our patent system. Upon the reliance in this decision much has been done in the way of establishing companies to operate telephones, millions have been invested, and the public was beginning to rejoice over the prospects arising from the death of this monopoly.

The case was taken to the Appellate Court, with the result of a reversal of Judge Carpenter's decision. The decision sustains the Bell Telephone Company practically at every point, and the gist thereof is stated as follows:

1. BERLINER MICROPHONE—DELAY—NOT INVALID.

   Letters Patent No. 463,569, issued November 17, 1891, to the American Bell Telephone Company, as assignee of Berliner, *held* not to be invalid by reason of delay in the progress of the application through the Patent Office suggested or acquiesced in by the Office.

2. DELAY IN PROSECUTING AN APPLICATION—VALUE OF THE INVENTION.

   There can be but one law touching alleged delays in the progress of an application through the Patent Office and touching the duty of applicants with reference thereto, whether the invention was from the outset seen to be valuable, or only afterwards proves to be so, or always remains of little account. To deny this is to deny that the laws are equal and would furnish a standard for the determination of the rights of patentees too fickle and imaginative to form a proper basis for the use of a court of law.

3. SECOND PATENT—INVALIDITY—SUIT BY THE UNITED STATES.

Whether Berliner's later patent is void on the ground the earlier patent "was granted upon the same application, to the same applicant, and for the same invention" will not be determined by the court in a suit by the United States to cancel the later patent, it appearing that the officials of the Patent Office had before them all the facts bearing on this subject which the court had and understood the law, so that the patent was issued under no mistake of either law or fact.

The decision is considered an able statement of law, and touches many important points of Patent Office practice, but the conscience of equity, supposed to occupy a plane much higher than the inflexible rules of law, which are rude instruments of justice at their best, seems not to have been awakened.

The decision is strong in its terms and the effort of the bill is characterized as an attempt to determine the rights of patentees by a standard "too fickle and imaginative."

Regarding the alleged unlawful delay of the applicant in prosecuting his application, the court very clearly states a rule of law, and says:

The "unlawful purpose" is understood to mean expectation that its monopoly would be extended through the delays on the part of the Patent Office. This, in some aspects, it might well regard as advantageous; but to undertake to lay down a rule of law or of fact that acquiescence in the delay of a public official who is bound to perform a certain act involves an unlawful purpose, because it may result to the advantage of the applicant, omits an important element of law. If the applicant is under no obligation touching the delay, there is no rule of law by which it can be said that, because he may receive an incidental benefit therefrom, his purpose in relation thereto is unlawful. A man's motives will not make wrongful an act which, in itself, is not wrongful.

The decision denies that the evidence in the case is sufficient to show "affirmative fraud of a public character," and furthermore says that all "epithets charging the Commissioner or any other officer of the Patent Office with any conscious violation or neglect of duty, or ignorance, or incapacity, are unsupported by the proofs in the case."

Had the United States pointed out "any existing pathway other than that which was adopted" the court says it would then have had some rule by which to "estimate what could have been done in the exercise of extraordinary diligence other than was done".

The decision is likely to stand, for it is generally conceded that the rulings of the Appellate Court upon the case, as presented and proved, are upon well established principles of law.

The point involved is a peculiar one, and in the event of the case going to the Supreme Court, which is not at all probable, that court may exercise that legal conscience, which exists in and by the authority of law, and protect the rights of the public rather than throw the responsibility of its decision on established rules of law which are never adequate to the needs of society. Unless equity courts avail themselves of the high principles, which it is their right to excersise, all monopolies, as rich and strong as the Bell Telephone Company, are beyond the proper control of the people, and in this respect law will fail.

The question of invalidity on the ground of a former patent is still left open, and this now seems to be the only point of attack to be taken advantage of by the United States, and upon it the suit may be renewed.

H. M. S.

List of Late Books, Documents, Etc., issued by Congress and the various departments of the Government. This is intended to be a description of only the more important of such publications.

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1069 ———*Experiment Stations*; Bulletin No. 21. Methods and results of investigations on the chemistry and economy of food, by W. O. Atwater; 222 pages. 1.25

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1071 ———Experiment Station Record, Vol. 6, No 10. .30

1072 ———Organization Lists of the Agricultural Experiment Stations and institutions with courses in Agriculture in the U. S.; 8° paper 88 pp.. .40

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1080 Same. Bulletin 14; Good Roads; extracts from messages of Governors; compiled by Roy Stone; 24 pp. .25

1081 ———*Statistics.* A Manual of Instructions to Crop Correspondents, by H. A. Robinson; 8°, 28 pp. .20

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1085 **Public Printer**; annual report of the Public Printer for the year ended June 30, 1894; 8°, 150 pp. [sm46c53]. .75

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1088 **United States Statutes at Large,** vol. 28, covering laws of 53d Congress, full sheep binding. 3.00

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CONTAINS: Exports declared for the U. S.; Swiss forestry and markets for American woods and tools; wine crop of France, 1894; apple crop of France, Germany and Great Britain; Cuban sugar industry; American flour in Cuba; American carpets in Switzerland; American cloth in England; tin plate trade of South Wales, etc.

1100 ———Same, May, 1895, No. 176. .35

CONTAINS: Methods of cotton baling in foreign countries, illustrated; new baling systems; improved bagging; manufacture of tin plate abroad; gas motor car in Dresden; burial of the dead in Switzerland; railroad development in Venezuela; diversion of Hawaii's sugar trade; electric lighting in Montevideo, etc.

1101 **Cotton Production and Consumption and Prices.** Report of Committee on Agriculture and Forestry on condition of cotton-growers, etc., vol. 1; xlvii, 515 pp. [s1986c53]. 1.00

Embraces letters and testimony of cotton planters in various places.

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PUBLIC LAND CASES—NOTES ON RECENT DECISIONS.

[Edited by CHARLES A. KEIGWIN.]

RAILROAD RIGHT OF WAY.—Where an act of Congress grants a right of way for the construction of a railroad, the Department is without authority to approve a location departing materially from the route indicated by the act; and a deviation of about 15 miles for the purpose of reaching a particular point is held to vitiate the location: Ks., C. P. & G. R. R. Co., 21 L. D., 1.

In the case of a grant in aid of a railroad, a departure in the construction of the road from the route indicated on the map of definite location does not affect the grant, if the road as built is within the lateral limits of the grant: Van Wyck *v.* Knevals, 106 U. S., 360; R. R. Co. *v.* R. R. Co., 6 L. D., 54; Rogers *v.* R. R. Co., 6 L. D., 565.

DELAY IN MAKING ENTRY.—WANT OF MONEY AS AN EXCUSE.—One who publishes notice of intention to make proof under the timber-land act, can not have his time for making entry extended on the plea that he has been unable to procure the purchase money; such an one is like an impecunious bidder at an auction sale, and the Government will not withhold its lands from sale in order to give fortune an opportunity to smile on the would-be purchaser: J. M. McDonald, 20 L. D., 559.

That inability to procure money is not a fact which can properly be said to be no fault of the claimant, is held in Simon Karpes, 7 L. D., 367.

That poverty is not such an excuse as will save rights, see Nix *v.* Allen, 112 U. S., 129. In Maddox *v.* Burnham, 156 U. S., 544, 547, occurs the following:

"No application was made for an entry. The excuse tendered is that he was not possessed of sufficient money to pay the required fee: * * * but unfortunate as the defendant's situation then was, much as he may be entitled to sympathy, it can not be that when he fails, even by reason of his poverty, to do that which the law prescribes as the initiation of any rights in the land, he is nevertheless entitled to the same protection which he would receive had he complied with the statute."

CONFIRMATION.—In John Malone, 17 L. D., 362, it was held that confirmation of an entry under the proviso to section 7 of the act of March 3, 1891, is defeated by any action or proceeding in the General Land Office taken within the statutory period of two years, although such action is not notified to the entryman until after the expiration of that period. Paul *v.* Wiseman, 21 L. D., 12, seems to hold to the contrary; the entry had been suspended in 1883 for additional proof of naturalization, but it did not appear affirmatively that notice of the requirement had been given to the entryman on or before the date of the confirmatory act; there being no proceedings pending at that date, the entry is held to be confirmed.

The same case holds that the sale of an undivided interest in the entered land does not entitle the purchaser to confirmation under the body of the section; following Bradbury *v.* Dickenson, 14 L. D., 1; Emblen *v.* Weed, 16 L. D., 28.

PRACTICE.—DEMURRER.—A defendant who, having demurred to the evidence and the demurrer being overruled, declines to adduce evidence and appeals from the judgment on his demurrer, is not entitled to a further hearing if he fails on his appeal: Brucker *v.* Buschmann, 20 L. D., 557. The same rule applies where the defendant relies upon a technical defense: Dixon *v.* Sutherland, 7 L. D, 312; such as defects in the notice: McFarland *v.* Jackson, 10 L. D., 405; Hall *v.* Rugg, 17 L. D., 393; or the construction of a statute: Yarneau *v.* Graham, 16 L. D., 348; or appeals from any order requiring something to be done, such as making additional proof: Jennie M. Tarr, 7 L. D., 67; Mary L. Tiffany, 7 L. D., 480; Jay Pierce, 8 L. D., 73; W. W. Wishart, 13 L. D., 211; or appeals from an order to show cause: Seveny *v.* Bickford, 15 L. D., 358; 16 L. D., 135. This rule applies, although the practice in the local courts may be different: Dewey *v.* Christie, 4 L. D., 346. Where the defendant's demurrer is sustained by R. & R., the Commissioner may overrule those officers, but in that event must remand the case and allow defendant opportunity to offer evidence: Jas. Copeland, 4 L. D., 275; West *v.* Owen, 4 L. D., 412; McMahon *v.* Grey, 5 L. D., 58; Bradford *v.* Aleshire, 18 D. D., 78.

FAILURE TO APPEAL.—Where one whose application to enter had been rejected by R. & R. on account of an erroneous understanding of the status of the land, did not appeal but by correspondence caused examination of the records and ascertainment of the facts, his acts are held equivalent to appeal, and sufficient to save his rights under the application. Such applicant is held, moreover, to have rights superior to those of one who had lived five years on the land without applying to enter: Summers *v.* Eagle, 20 L. D., 550.

Failure to appeal from rejection of an application does not prejudice where such failure is due to erroneous information given by R. & R. as to the record status of the land: Avery *v.* Smith, 12 L. D., 550; Massey *v.* Malachi, 11 L. D., 191; McKernan *v.* Bailey, 16 L. D., 368. But McKernan *v.* Bailey is reversed on review, 17 L. D., 494, and it is held that failure to appeal is not excused by erroneous official acts or statements: See cases cited, 17 L. D., 496.

Whether a claimant of public land must exhaust his rights of appeal in the Department before going into the courts to vindicate his rights against the errors of subordinate officers, and, if not, how far must he appeal, *quære*. One would presume that he must obtain the last possible action of executive officers before invoking protection of

the judiciary. But Cornelius *v.* Kessel, 128 U. S., 456, seems to hold that one need not appeal from a judgment of concellation by the Commissioner, but may stand in court upon his canceled entry; and in the following cases errors of subordinate officers appear to have been corrected in the absence of appeal to the Secretary: Lindsey *v.* Hawes, 2 Black, 554; Barnard *v.* Ashley, 18 How., 43; Garland *v.* Wyman, 20 How., 6; Lytle *v.* Arkansas, 9 How., 314; S. C., 22 How., 193. In Oklahoma town-site cases the right to proceed in court without first appealing to the Commissioner is recognized in Circular, 12 L. D., 612.

STATE SELECTIONS.—An act authorizing a State to select a certain acreage "out of the unoccupied and uninhabited lands of the United States," does not warrant selections of lands reserved for any purpose or of mineral lands; the phrase quoted is simply equivalent to the words "public lands:" State of Mississippi, 20 L. D., 510.

ATTORNEYS.—One employed in a case as attorney can not act as notary in the same case: Werden *v.* Schlecht, 20 L. D., 523. This is a return to the rule laid down in earlier cases: Traugh *v.* Ernst, 2 L. D., 212; Sweeten *v.* Stevenson, 3 L. D., 249, which were overruled in Wm. R. Sutley, 3 L. D., 248; McCall *v.* Molnar, 2 L. D., 265; Strout *v.* Yeager, 7 L. D., 41. That an officer taking final proof can not act as attorney in the case, see par. 13, Circular, 4 L. D., 297.

OKLAHOMA TOWN LOTS.—Townsite trustees can not make deeds until after the site is surveyed and platted, and then only by reference to the plat; it follows that they can not convey any land platted as part of a street or alley; nor can they divide a lot and convey by metes and bounds: J. F. McGrath *et al.*, 20 L. D., 542.

Under this ruling portions of a town-site platted as streets or alleys cannot be entered on the strength of actual occupancy prior to the survey; and it was so held in a case where the occupant had placed improvements valued at $200 upon a tract platted as a public square and had maintained *bona fide* residence thereon: Joseph Dolezal. 20 L. D., 524.

Under these rulings those persons, in Guthrie and other towns, who staked out claims on ground afterwards surveyed into streets, alleys, public squares and parks, will lose their holding or such portions as are so appropriated to public uses.

In a case where two claimants settled at a distance from each other, and laid off claims which did not conflict, and those claims were, by a subsequent survey, thrown into the same lot, *held*, that the entire lot must go to the first occupant of any portion of it, to the exclusion of the later settler; this on the principle above stated that a lot can not be divided and joint entry is not recognized: Freeman *v.* Avery, June 12, 1895, not reported.

CHANGES IN PATENT PRACTICE.

[Edited by HUGH M. STERLING, Attorney, Washington, D. C.]

Since the amendment of the Rulee of Practice of the United States Patent Office, which went into effect on April 15, 1895, there has been much speculation among patent lawyers as to the legality of some of the changes effected thereby. After October 15, 1895, this much discussed amendment to the rules will have been in force six months, the office will then re-examine cases which have not been prosecuted within six months, and those attorneys who dispute the legality of the new practice will have an opportunity to make good their many avowed intentions to test the validity of the Commissioner's action.

The most important among the changes is the repeal of rule 65 of the Rules of Practice and the substitution of a new rule of wholly different tenor. The repealed rule 65 was merely for the purpose of defining the practice of the Office under section 4903, R. Stat., and is substantially the same as the statute. The objection raised by attorneys is not as to the effect of the repeal of this rule upon section 4903, R. S., for there can be none, and the practice, as far as this section of the law is concerned, will remain the same, but it is held that the Commissioner, in making the new rule 65, has infringed upon section 4894, R. S., which provides that an application shall not be abandoned until there shall have been a failure to prosecute for two years. Upon this point opinions are many and varied; some going to one extreme and holding that the new rule attempts to abandon an application after a failure to prosecute for six months, claiming that that will be the effect of the rule; some going to the other extreme and contending that the effect of the rule will be to allow two years and six months before an abandonment can take place for failure to prosecute, either of which, if true, is in violation of the statute. It can not be doubted but that these varying opinions, and possibly all of them, against the validity of the new rule, is due to a hasty examination of the matter, but so widespread are these contentions that the matter warrants an analysis, with a view to discovering their fallacies.

The rule 65 repealed is as follows:

"65. Whenever, on examination, any claim of an application is rejected for any reason whatever, the applicant will be notified thereof. The reasons for such rejection will be fully and precisely stated, and such information and references will be given as may be useful in aiding the applicant to judge of the propriety of prosecuting his application or of altering his specification; and if, after receiving such notice, he shall persist in his claim, with or without altering his specification, the application will be re-examined. If upon re-examination the claim shall again be rejected, the reasons therefor will be fully and precisely stated."

An inspection of section 4903 will show that the old rule was simply a re-wording of the statute, and that its repeal in no way affects the law, as the practice can not be other than in compliance with the statute. This section is as follows:

"SEC. 4903. Whenever, on examination, any claim for a patent is rejected, the Commissioner shall notify the applicant thereof, giving him briefly the reasons for such rejection, together with such information and references as may be useful in judging of the propriety of renewing his application or of altering his specification; and if, after receiving such notice, the applicant persists in his claim for a patent, with or without altering his specifications, the Commissioner shall order a re-examination of the case."

It is certainly clear that the repeal of rule 65 does not enter into the question directly or indirectly, as it could have been considered long ago as superfluous, in view of the statute which expresses the same matter. It remains to be seen, however, whether the new rule is in conflict with this section or any other section of the law.

The new rule is as follows:

"65. An applicant will be considered to persist in his claim for a patent without altering his specification in case he fail to act in prosecution of the same for six months after the office action thereon, and thereupon the examiner will make a re-examination of the case."

While the new rule says it shall be the practice of the Office to re-examine an application on failure of applicant to act in prosecution thereof for six months, it incidentally defines the word "persist" in Sec. 4903 of the statute, and this is clearly within the province of the Commissioner, provided it is not in conflict with the statute, as the Commissioner of Patents, "subject to the approval of the Secretary of the Interior, may from time to time establish regulations, not inconsistent with law, for the conduct of proceedings in the Patent Office." (Sec. 483, R. S.)

In defining the word "persist" there is certainly no conflict with that section of the Revised Statute in which that word is used, as its interpretation will be determined by the practice of the Office, which is clearly subject to amendment by the Commissioner.

It may then be inquired whether by thus defining the word "*persist*," as is done by the new rule, the Commissioner has made a regulation inconsistent with any other section of the law, or that in taking up an application for re-examination after a six-months' delay in prosecution, he is taking away any statutory rights?

The prevailing opinion among attorneys is that the new rule is in direct conflict with section 4894 of the statute, and in some way defeats the two-year abandoning clause.

"SEC. 4894. All applications for patents shall be completed and prepared for examination within two years after the filing of the application, and in default thereof, or upon failure of the applicant to prosecute the same within two years after any action therein, of which notice shall have been given to the applicant, they shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner of Patents that such delay was unavoidable."

A re-statement of the law as to this two-year provision would be that, if the applicant does not fail to prosecute his application within two years after any action therein, it shall not be regarded as abandoned. It is difficult to see how the taking up of an application by the the Office at the expiration of six months can affect the applicant's statutory right. It seems to have no direct bearing upon the law in question, nor can it be said to antagonize the law indirectly.

If the Patent Office takes it upon itself to re-examine applications every six months where there has been a failure to prosecute within that time from the last action, it is not against the law and in no way limits the two-year rule; this is just as much in force as ever, but its perversion and the practice which has grown up under it will be affected. This two-year provision is merely for the purpose of according a reasonable time during which there need not be prosecution of the application before it can be considered as formally abandoned. The importance of the recent ruling to applicants and attorneys, is from quite a different standpoint, and one not within the intent of the law.

Under the practice heretofore, the two-year rule has been taken advantage of to delay the prosecution of applications and thereby to keep them pending indefinitely, for the existing practice was to the effect that if a material action be taken by the applicant once in two years, provided such action be considered, in the judgment of the Office, to be material and not for purposes of delay, the life of the application would be indefinitely extended. There are many applications before the Office which have been kept alive thus for ten years, and notably among those which have gone to patent is the celebrated Berliner patent, now the basic patent of the Bell Telephone Monopoly, which was delayed fourteen years in the Patent Office. Now the Office says, we will no longer make this matter optional with the applicant; he is not to be deprived of his two years in which he may remain passive regarding his application before it will become abandoned, but at the end of six months, or possibly every six months, we will take up his application and subject it to an examination and in an indirect way compel him to take action. If he omits to comply, how can he expect to make an amenment just before the expiration of two years and get the Office to consider it material and not made for the purposes of delay or for keeping alive his application for more than two years. Such seems to be the purpose of the new rule as well as the effect. There certainly is no abridgement of any statutory right. The question of abandonment that

is affected is not that within the meaning of the statute, but that fostered by the former practice under the statute.

From the practice that has prevailed heretofore, the general opinion is that the applicant has two years from the last Office action in which to amend and save his application from abandonment, and this, according to such practice, is correct, but an attempt to apply the same under the new rule is glaringly absurd. Some attorneys have fallen into the error of thinking that the applicant would now have two years from the date of the last action which would occur in six months from his last action, and instead of two years of silence on his part he would have two years and six months, all in violation of the statute. The fact is that if the premises were true he would have two years from the last Office action, which may now occur every six months, but the premises are not true, for the statute says, "two years after *any* action therein, of which notice shall have been given"; so the two years no longer run from the last Office action, but from "any action," and therefore the two-years' provision of the law has not been infringed.

The difficulty in considering the effect of the new rule 65 has been the danger of confounding the statute with the former practice of the Office. The practice has been changed; the statute remains unaffected, directly or indirectly.

The rule is a very necessary one and is generally thought to have grown out of Judge Carpenter'r decision in the Bell Telephone case. It is aimed at the dilatory tactics resorted to for the purpose of defeating a prompt prosecution of application or for keeping up the appearance of application rights when none in reality exist.

H. M. S.

Mr. Joshua E. Crane has been appointed librarian of the Taunton (Mass.) Public Library, to succeed E. C. Arnold, resigned. Mr. Crane is a graduate of Brown University, and well fitted for his new position.

Mr. Frederick Saunders has been librarian of the Astor Library, New York, for 36 years, and has just celebrated his 88th birthday.

Miss Jessie Allen has resigned her position as librarian of the Omaha Public Library, and Mr. B. H. Barrows has been elected to succeed her.

Miss Caroline M. Underhill has been appointed librarian of the Utica Public Library, vice Miss Louisa S. Cutler, deceased. Miss Underhill has been assistant librarian of the Newark Public Library, which is sufficient guarantee of her efficiency.

"Our Neutrality Laws," is the title of a pamphlet recently issued from Fort Ethan Allen, Vermont, by John G. Bourke, Captain Third Cavalry, U. S. Army. This letterwork covers thirty-two pages of long primer type and contains facts and suggestions enough to give the whole machinery of several branches of our government a good job for the winter. The matter referred to relates to the United States and Mexican border line, and is the best and most authentic history that has ever been penned. Captain Bourke was there with his troop for several years, and to his energy, determination, fearless courage and devotion to duty may be charged the severe punishment which has robbed of much of their terror the hordes of Mexican and American banditti who were engaged in assaulting, robbing, terrorizing, kidnapping and murdering the helpless people on both sides of the Rio Grande, and who were often found wearing the badges of official power granted them by National and State authority. Cabtain Bourke and a few true-hearted men did much to rehabilitate the shattered neutrality laws, and bring security to the residents.

Four volumes of the record of the Fur Seal Arbitration Court held in Paris have been issued, and twelve more are to follow, with a big sprinkling of pictures, maps, etc. About four months hence the work will be complete, and tha seal catch next year will probably come somewhere near producing dollars enough to pay the cost — but then "doubtful things are uncertain at best."

A report of late books sold in various cities of the United States in September shows that the Bonnie Brier Bush, by Maclaren, leads all others; aud then come Fort Frayne, one of Capt. King's charming efforts, Adventures of Captain Horn, Chimmie Fadden, the Story of Bessie Cestrell, The Master, by Zangwill, Mr. Bonaparte, of Corsica, by Bangs, and Chiffon's Marriage, by Gyp. The geographical distribution makes little difference in the conditions.

Of Chimmie Fadden fifty thousand copies were sold in six months—see?

In reading the signature of Maarten Maartens, we can't help thinking his writing is better than his spelling.

"Ian Maclaren" is Rev. John Watson, and is as truly Scottish as are his stories.

If any of our readers should have in their possession old Congressional Documents, Reports of Committees, Executive Documents, Journals, etc., which they may wish to dispose of, we shall be glad to have them report same to us, with a view to selling or exchanging same for other books. Such a transaction may be effected to the mutual advantage of all parties.

List of Late Books, Documents, Etc., issued by Congress and the various departments of the Government. This is intended to be a description of only the more important of such publications.

1666 **Agriculture.** Annual Report of the Secretary for 1894; cloth, .50
———Year Book of the United States, Department of Agriculture, 1894, 8°, cloth, 608 pp., illustrated, 1.00

The two titles above have heretofore been issued in one book under the title of "Annual Report of the Secretary of Agriculture," but they are now separated, and the Year Book is made up of non-scientific matter, the papers being of a popular character, and of too great variety to be individualized here. A great improvement has been made in the physique of the work, the deplorable, rusty old black coat having given way to a neat dark green cloth, while the paper is of a much better quality. The natural history pictures would tickle the children more if they had a little paint on them.

1667 ———*Animal Industry.* Rules and Regulations governing the operations of the Bureau of Animal Industry; also acts of Congress under which made, 1895, .25

1668 ———*Experiment Stations.* Agricultural investigation at Rothamsted, England, during a period of fifty years. Lectures by Sir Joseph Henry Gilbert. 8°, 316 pp, diagrams, 1895, 1.00

1669 ———*Experiment Stations.* Experiment Station Record, Vol. VI, No. 11, 1895, pp. 945–1032, .35

1670 ———*Experiment Stations.* Proceedings of Eighth Annual Convention of the Association of American Agricultural Colleges and Experiment Stations; Washington, November 13–15, 1894, 98 pp. [Bul. 24.] .35

1671 ———*Foreign Markets.* The World's Markets for American Products. Great Britain and Ireland. Bull. 1, reprinted with supplement, 1895, 155 pp., .40

1672 ———*Same.* Bulletin No. 3. France, 1895, 74 pp., .25

1673 ———*Same.* Bulletin No. 4. Canada, 1895, 67 pp., .25

1673 ——— Special Report on Diseases of the Horse. Illustrated. Cloth binding, .75

1675 **Calendar of the Correspondence of Thomas Jefferson.** Part I. Letters from Jefferson. Bulletin of the Bureau of Rolls and Library of the Department of State, No. 6, July, 1894; large 8°, vi and 541 pp., paper, 5.00

This is one of the series of Bulletins issued by the State Department, and only a few hundred copies printed from type. Bulletin No. 1 comprises papers relating to the Continental Congress, and documentary history of the Constitution. No. 2 is a calendar of the correspondence of James Monroe. No. 3, a list indicating the arrangement of the Washington papers, proceedings of Federal Convention, etc. No. 4, Calendar of correspondence of James Madison. No. 5, index of the arrangement of the papers of Madison, Jefferson, Hamilton, Monroe, aad Franklin, documentary history of the Constitution, Constitution as signed in convention, ratifications by States, etc. These are all representative of original papers on file in the State Department, and a valuable collection.

1676 **Census, 1890.** Report on the Population of the United States at the 11th Census. Part I, ccxiii and 967 pp., colored statistical maps, paper, 1.50

1677 **Coast Survey,** Report of the Superintendent of the U. S. Coast and Geological Survey for fiscal year ending June 30, 1893. Part I, Report of the Superintendent, and progress sketches, 4°, $0.75; Part II, Appendices relating to the methods, discussions, and results of survey, 8°, 639 pp., maps, plates, etc., [Se19b53], 1.00

1677½ **Comptroller of the Currency.**—Annual Report for 1894. 2 vols., 8°, unbound, $1.50; cloth, 2.00

Vol. 2 is composed of a report upon the condition of each National Bank in the United States at close of business on Tuesday, October 2, 1894.

1678 **Congressional Record,** December, 1894, to March 4, 1895, 3d session, 53d Congress, 5 vols., 5.00

1679 **Consular Reports.** Reports of U. S. Consuls abroad, June, 1895, No. 177, .25

CONTAINS: Oriental market for dairy products and fruits; tarred felt roofing paper; artificial silk in Switzerland; British export of tin plate; Russian cattle and meat products, etc.

1680 ———*Same.* July, 1895, No. 178, .25

CONTAINS: Military Shoes in Austria; United States Iron Co. in Cuba; Cotton prospects in Egypt in 1895; Artisans' dwellings and tenement houses in Liverpool; Copper rolls in France and Russia, etc.

1681 ———*Same.* August, 1895, No. 179, .25

CONTAINS: Exports declared for United States in Algeria, Austria, Belgium, Canada, Ceylon, Cuba, Denmark, France, Germany, Hawaii, etc.; cotton in Peru; kerosine in Russia, etc.

1682 ———*Same.* September, 1895, No. 180, .25

CONTAINS: Wages in foreign countries; gold certificates in Russia; horseless carriages in France; trout farming; wine and brandy in France; German machines for the United States, etc.

1683 ———*Special Report.* American Lumber in Foreign Markets. 1894, 217 pp. and index, .75

1684 **Columbian Historical Exposition at Madrid, 1892-93.** Report of the United States Commission, with special papers. Includes the illustrated catalogue of the historical section, identical with the same exhibit in the Monastery of La Rabida at the World's Columbian Exposition at Chicago. 8°, 411 pp., [he100c53], .75

1685 **Digest of the Laws, Decisions** relating to the appointment, salary, and compensation of the officials of the U. S. Courts, with the instructions of the Attorney-General to U. S. district attorneys, clerks, and marshals. By Robt. M. Cousar, 1895. 8°, 300 pp. [Hm87c53], unbound, $1.00; sheep, 2.00

1686 **Digest of Opinions of the Judge Advocate General** of the U. S. Army, with notes by Col. W. Winthrop, Ass't Judge Advocate General. 8°, 868 pp., law sheep.

Only one single thousand of these were printed. 'Cause why? Well, that brain crammed committee which framed the present printing law, provided that no more than one thousand copies of any book might be printed on the order of any department. This will allow only a fraction of the officials of the government to secure the books required by them for their official use and guidance. In some cases it is even impossible to supply a copy to the scientific contributors who have rendered gratuitous service in the preparation of the work. There is no limit to the solid chunks of wisdom hidden away in that law.

1686½ **Fish Commission.**—Bulletin of the U. S. Fish Commission. Vol. XIV, for 1894. Royal 8°, 496 pp., 25 plates, 1.50

CONTAINS: Fishes of the Colorado Basin; Mackenzie River, British America; Columbia River Basin; Fishes collected in Florida; California Fishes; Salmon Fisheries of the Columbia River; fishes of Arkansas; fish under domestication; fisheries of Middle Atlantic States; fishes from Central and Northwestern Mexico; etc., etc.

1687 **Fur Seal Arbitration.** Proceedings of the Tribunal of Arbitration convened at Paris, under the treaty between the United States and Great Britain, conducted at Washington, February 29, 1892, for the determination of questions between the two governments concerning the jurisdictional rights of the United States in the waters of Bering Sea. Parts I, II, III and IV ready [se177b53], each part, .75
Parts I to XVI will follow.

This document is of rather tardy appearance, but inasmuch as it shows how our revered Brother Jonathan allowed himself to be taken in and buncoed by Neighbor John Bull, we should have sympathetically consented to a further postponement until 1995. We got an awfully black eye in that business. It was worse than "54,40 or fight."

1688 **Gauger's Manual.** U. S. Internal Revenue Gauger's Manual, embracing regulations and instructions and tables, prescribed by the Commissioner of Internal Revenue, April 10, 1895, with tables. A new edition, revised and corrected. 12°, 587 pp., limp leather binding, by mail, 2.50

1689 **Geological Survey.** Fourteenth Annual Report of the Director, 1892-93, in two Vols. Imperial 8°. Part I, Report of Director. Part II, Accompanying papers: Potable Waters of the Eastern United States, by W. J. M'Gee; Natural Mineral Waters of the United States, by A. C. Beale; Results of Stream Measurements, by F. N. Newell; The Laccolitic Mountain Groups of Colorado, Utah, and Arizona, by Whitman Cross; The Gold-Silver Mines of Ophir, Cal., by W. Lindgoen; Geology of Catoctin Belt, by A. Keith, etc., illustrated with 74 plates and 75 figures and folding maps. 2 vols., paper, $2.50; cloth, 4.00

1690 **Index Catalogue of the Library of the Surgeon-General's Office, U. S. Army.** Vol. XVI., W to Zythers, end of the alphabet. Royal 8°, green cloth, 4.00

1691 ——*Also*, Abbreviations of Titles of Medical Periodicals, etc., used in the Index Catalogue. Vols. I to XVI. 282 pp. Uniform with the Index, 2.00

This magnificent work is now completed, and will stand for many years an unique monument to the ability, energy, and wisdom of Dr. John S. Billings, Deputy Surgeon General and Lieut. Colonel, U. S. Army. This work has met with the highest praise and most gratifying eulogies from scientific men in every quarter of the globe, and reflects the greatest honor upon the author and our country alike. Dr. Billings has now gone on the retired list, having completed the Index and his active service in the army at the same time.

1692 **Stark and Webster Statues.** Proceedings in Congress upon acceptance of the statues presented by New Hampshire. 263 pages, 2 steel plates. [sm64c53], .75

John and Daniel have been placed in the rank of Capitoline marble celebrities, where they will soon rub elbows with their neighbors, as they are somewhat crowded, and will be lucky if they are not shoved out onto the plaza to keep G. W. company.

1693 **U. S. Statutes at Large.** Vol. 28, covering all the laws enacted by the 53d Congress, and all joint resolutions, etc.; law sheep, 3.00

We have recently come into possession of a copy of the first pocket edition of Walker's Critical Pronouncing Dictionary and Expositor of the English Language, Hartford, 1823. It is small but full of the usual short stories, which, however, are much more interesting than the "Century" or "Standard." We quote a few of the definitions, just to show how things used to was in our grandfathers' days. The following definitions are worth attention:

Bull. The male of black cattle.

Caltrops. An instrument made with three spikes, so that whichsoever way it falls to the ground one of them points upward.

(We should like some reader to prove this.)

Camera obscura. An optical machine used in a darkened chamber.

Card. A paper printed.

Carbuncle. A jewel shining in the dark.

Careen. To calk; to stop up leaks.

Gloat. To cast side glances, as a timorous lover.

Gooseberry. A tree and fruit.

Nepotism. Fondness for nephews.

Ostrich. The largest of birds.

Paper. A substance on which men write and print.

Parabola. One of the conick sections.

Screak. To make a shrill noise.

Tetchy. Froward, peevish.

Vortex. Anything whirled round.

Windpipe. The passage of breath.

Yellow. A bright, glaring color.

Should any of our readers care to possess this humorous souvenir we shall be glad to quote a moderate price for it, and we are quite sure it will prove a mascot.

The Iconoclast is abroad with his battle axe whetted on both sides. Mr. John Preston Beecher, in *The Collector*, has picked up a number of the viciously-hewed fragments.

First. Wilhelm Shakspeer is denounced as an old usurer, without heart, soul or conscience, and a German writer "has the documents to prove it."

Patrick Henry never said "Give me liberty or give me death," at least his associates never heard him say so. Ergo! He was two years in the Continental Congress and never opened his mouth except to yawn. Tommy Jefferson said Patsy was "ignorant, fond of low company and changed his shirt but once a month—in dog days, too. His chief occupation was playing the fiddle—and he was a mugwump, with little of what is called 'learnin'."

And, finally, Israel Putnam, the fellow who appears in a ton of marble in Statuary Hall, is skinned. Thus: It would be impossible to imagine a bigger humbug than the round-faced old farmer, whom Washington tried to drive out of the service because he was too intimate with the British enemy, and because on several occasions he deliberately withdrew his men so as to ensure important victories to the enemy. Gov. Bowdoin had declared that Putnam deserved to be shot. The list of his betrayals is long and in detail. Sarcastic reference is made to Israel's claim that a she wolf had eaten seventy-five of his sheep in *one night*, and on measuring her cave into which the hero pursued her it was found to measure exactly three feet in depth.

Give us another!

Are the people of the United States drifting into the mental condition of small children, or are the symptoms indicative of something even worse—approaching idiocy? Are sterling manhood, independence and appreciation of the fitness of things gone to the "demnition bow wows?" It is useless to mention the imbecility of the "chappies" who ape English men and English manners, for these are beyond contempt; but what shall we say of the news gobblers whose prey consists of foreign tourists who are held up on the incoming steamers and questioned as to their impressions of America before they have even landed or caught a whiff of New York garbage? This question seems to be the stock conundrum of newspaper men in all quarters and on all occasions, and the "metropolitan dailies" are parties to the idiocy. Now, what in the name of Uncle Sam do we care for the impressions America may have made upon the more or less developed brain of any foreigner who has studied the United States for six weeks and barely learned that the country differs from Africa? Why should we impress them with the idea that the Nation is in a fever to know what they think of us—when in point of fact we don't care a d—oughnut what they think, or whether they think at all? This depth of imbecility we are happy to say is confined to a class of newsgrabbers who are in a state of infantile irresponsibility, but the managing editor—where is he? Can't he save us from this frequent parade of American humiliation? Imagine an Englishman asking an American tourist his impressions of Great Britain!

J. Beaver Webb, the English sportsman, who built the Genesta and the Galatea, and tried to win the America's Cup but failed, says he closely watched the Defender-Valkyrie race, and that it was the clearest course he ever saw at a cup race. Notwithstanding which, Lord Dunraven, with his "true sportsmanship," and "English love of fair play," abandoned the race, violated his contract, and played a prize part in the baby act.

He should have been interviewed as to his "impressions of America."

One of the three most valuable private libraries in the United States, writes Charles Sotheran, the bibliographer, in the New York *Sunday News*, is that of Mr. Hubert Howe Bancroft, of San Francisco. Mr. Bancroft's library contains the history of the western slope of this continent. Volumes, pamphlets and documents numbering thousands upon thousands, in English, Spanish, French, German and Russian, and many of which are to be found in no other public or private library, comprise a marvelously complete body of information anent discovery, life and civilization on the Pacific coast west of the Rocky Mountains and from the Behring Straits to the Isthmus of Darien. Mr. Bancroft started the collecting of his library in 1855 by making purchases of books bearing on his specialty wherever he could find them in California and the adjoining States, unearthing and obtaining possession of the rarest nuggets discoverable in the old missions and conventual houses, which dated from the Spanish domination of the Pacific coast, when it was still under the viceroys of the Indies. He further built up his collec tion by buying up literary material wherever else it was to be found, visiting many times the large cities of the eastern States and Europe for the purpose, and leaving commissions of a general character with most of the book-dealers of New York, London, Paris, Amsterdam, Frankfort, and other points. It is safe to say that within ten years after Mr. Bancroft's book hobby was placed on such international lines, almost every work obtainable relating to the Pacific coast gravitated westward to his library. Minor individual collections of books on the same topics as he made peculiarly his own soon found themselves shelved side by side with his larger one. There is not a Spanish-American book of any value, commencing with the Columbus letter, printed in 1493 and describing the discovery of America, that can not be found in the magnificent library building erected by Mr. Bancroft for the purpose of housing his collection, upon which experts have put an estimated value of over half a million of dollars, and which will, doubtless, before many years are over, become either a portion of the National Library at Washington or constitute the most important part of the California State Library. It is not improbable, however, that it may find its way to New York City, the trustees of both the Astor and Lenox libraries having made, it is reported, generous offers for it, but not sufficient to tempt Mr. Bancroft's bibliomaniacal sense of personal possession, that, like the gold of the miser, is the dominant idea pervading and mastering the life of the human bookworm.

Capt. Charles King, the author, who has recently been made adjutant-general of Wisconsin, left Columbia College to enter the army as drummer-boy in the regiment of his father, General Rufus King. In his rise from the ranks, his services at West Point, in the Apache, in the Sioux and Nez Perces campaigns, and in his love affair and marriage, his life is no less interesting than the stories he now talks into a phonograph to be published.

"John Oliver Hobbes," who has written the novel with the longest title in modern literature, is the daughter of Mr. Richards, the proprietor of a famous patent medicine. She is a dark, handsome woman with large, dark eyes and a very high color, dresses very smartly, and is as brilliant in her conversation as in her books.

It is gratifying to know that Kate Field has arranged to have John Brown's Fort shipped back from Chicago, to take as near as may be its original place at Harper's Ferry. The removal of this historic building to Chicago was a piece of iconoclism which was punished by a dead failure as an exhibition as a curiosity. In its proper place John Brown's Fort was a historic object of the highest interest, but taken away from there it became only so much brick and mortar. The resulting failure may discourage that spirit which would eventually lug George Washington's tomb to some notoriety-seeking suburb of a struggling town, and may save Monticello and the Hermitage from being floated up and down on flat boats as river town shows.

In the name of our age and our country let the newspaper press elevate itself to cultivating national dignity and self respect, and to inspire a spirit of Americanism worthy of Ben Franklin, George Washington and the long line of honorable men who made America, and have brought it to be the leading nation of the world.

Let us have an era of clean, wholesome Americanism.

The Old Liberty Bell is again being hauled about the country as a show for advancement of the financial condition of private enterprise. We may next learn of its exposure at the county fairs alongside the biggest pumpkin and the fattest pig. If a bell *must* be loaned about, why not settle down on the imitation fake *liberty* bell, and turn it loose at so much a pound. Peddle our patriotic relics freely.

The late Cesare Cantu has left orders that the following words should be on his tombstone: "Studying history, I learned the nothingness of grandeur and of misery."

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PUBLIC LAND CASES. NOTES ON RECENT DECISIONS.

[Edited by CHARLES A. KEIGWIN.]

Oklahoma—Town Lot Settlements.—In Beamer *v.* City of Guthrie, 41 Pac. Rep., 647, the Supreme Court of Oklahoma holds that a settler who, prior to the townsite survey, staked off and occupied a claim, holds the same subject to the right of the townsite trustees to appropriate part or all of the ground for streets, alleys or other public uses.

Departmental Action—Power of Courts to Review.— A State court has no jurisdiction to re-examine the decision of the Land Department on a question of fact (residence on a homestead,) unless the decision was procured by fraud or imposition: Stewart *v.* McHany, U. S. Supreme Court, Nov. 18, 1895; affirming S. C. 35 Pac. Rep., 141. See 9 L. D., 344, for departmental action on this case.

Lumber Cutting—Right of Settler.—A settler upon a homestead may cut such timber as is necessary to clear the land for cultivation, or to build a house, outbuildings and fences, and, perhaps, as indicated in the charge of the court below, to exchange such timber for lumber to be devoted to the same purposes; but not to sell the same for money, except so far as the timber may have been cut for the purpose of cultivation; and the entryman who cuts timber from the land entered by him for other purposes is liable to criminal prosecution: Shiver as U. S., decided by U. S. Supreme Court, Nov. 11, 1895. The Court cites, 23 Int. Rev. Rec. 368; 5 Lawyers, 68; 11 Fed. Rep, 81; 14 id., 824; 18 id., 372; 19 id., 910; 32 id., 195, 376.

Railroad Grant—Exceptions.—In Whitney *v.* Taylor, 158 U. S., 85, the Supreme Court holds a pre-emption filing on land within a railroad grant, existing at date of attachment of the grant, excepts the land from the grant, though the filing is an expired one and the settler has abandoned the tract, the language of the granting act excepting tracts to which pre-emption on homesteads *claims* had attached.

In re Southern Pacific R. R. Co., 21 L. D., 423, the Department extends the rule of this case to selections of indemnity lands, holding that lands within the indemnity limits of a railroad grant are not eligible as indemnity so long as they are covered by pre-emption filings, though such filings may have expired.

School Lands—Rights of Settlers.—A tract of land is not subject to selection by a State if it is occupied by a settler, though the latter has failed to file or enter within the statutory period. Only the next settler in order of time can take advantage of the occupant's delinquency and insist upon a forfeiture of the land: Washington *v.* Streeter, 21 L. D., 453. To like effect are Fountain *v.* California, 14 L. D., 417; N. A. Sweitzer, Com.'s Rep., 1891, p. 221.

Where the settlement is on a school section (to which the claim of the State attaches, if at all, by virtue of statutory grant and not by selection), the doctrine of the Department as to the effect of the settlers' laches is not so clear. It was at one time quite consistently held that the settler must assert his claims within the statutory period, else the right of the State would at once attach: Mette *v.* California, 2 C. P. L. L., 632; Austin Kinney, *id.*, 1111; C. W. Love, 1 L. D., 630. These cases were overruled in Giovanni Le Franclin, 3 L. D., 229, holding that the State could not insist upon forfeiture for mere delay. But in Niven *v.* California, 6 L. D., 439, as explained in T. F. Talbot, 8. L. D., 495, the old doctrine was reasserted, and elaborated to the extent of holding that, on the expiration of the settler's period for filing, the State grant became absolute, so that the State could not select indemnity for the land occupied. Formerly a distinction was recognized between school sections granted to a State and school sections merely reserved in a Territory, the holding being that in the latter case the settler's delinquency did not forfeit his right: Jane Hodgert, 1 L. D., 632; but the same rule was applied to both State and Territorial lands in the Talbot case, *supra*. In Cichy *v.* Paltzer, 14 L. D., 384, the Secretary, speaking of a settler on a school section, says:

"I am of opinion that the State is an adverse claimant in this class of cases. It is in the position of a subsequent settler. It may await what the prior settler does, or it may go into other land and make selection."

In the final disposal of the same case, 20 L. D., 52, it was held that the mere failure to make proof in time did not of itself work a forfeiture of the settler's right, and that as the State did not offer objection to the completion of the settler's title, his entry would be allowed. This appears to establish the rule that the settler's delay makes possible a forfeiture in favor of the State, but the enforcement of such forfeiture rests in the option of the State.

A case which may have some bearing on the question, and which is not noticed in any of the Departmental opinions, is The Schools *v.* Walker, 9 Wall., 282. This question will come before the Supreme Court in March next, and will receive authoritative decision.

Settlement Before Survey.—The settlement which enables the settler on a school section to claim against the school grant must be made before the survey in the field. "If any one, after actual survey in the field, shall have located within the boundaries of sections 16 or 36, he does it at his hazard, and if the survey be finally approved, his settlement can avail him nothing": Chas. P. Clyde, 21 L. D., 410.

Where, however, only exterior township lines are fixed, but the sections have not been marked off, settlement on section 36 is valid against the school grant, though the settler may know that the land will be part of a school section: Harris *v.* Minnesota, 2 C. L. L., 631; Bullock *v.* Rouse, 81 Calif., 590.

PATENT PRACTICE.

[Edited by HUGH M. STERLING, Attorney, Washington, D. C.]

What Constitutes Invention. — Now and then the law is redeemed from its tendency to become a mere technical juggle, by some mind accustomed to a sense of grave responsibility and

broad enough to escape the intellectual dwarfing that comes from being too analytical. Invention, this most subtle question of patent law, which evades all effort at comprehensive definition, as does the question of fraud in the criminal law, now and then needs the broad interpretation and the accompanying emphasis such as is found in the recent decision of Judge Coxe (Circuit Court N. D. New York), in Gould Coupler Co. *v.* Pratt *et al.*, rendered Nov. 19, 1895. In this case, which was a suit for infringement, one of the defences was lack of invention, and so thoroughly did the court take up the question of invention that it would seem as though it was directed at the present restricted policy of the Patent Office upon this all-important subject.

But will it be heeded? The voice is one of authority, but as usual it will fall on deaf ears, so seldom do the bureaus of our Government try to conform to the decisions of our judiciary.

The patent sustained against the lack of invention is one granted Clinton Browning, in 1882, when a more liberal policy was pursued in the Patent Office than that which characterizes proceedings to-day, and the conclusions of the court are just those which one would expect from a mind trained to profound thinking and accustomed to deal with broad issues, the general rather than the particular, the remote rather than the immediate effect.

If we can not frame Judge Coxe's decision and hang it where we would wish to, we can at least honor his wisdom and show sincere approval by repeating his able words.

"The court has little difficulty in finding novelty and invention in this patent. Browning attempted to remedy the defects in the Janney coupler. He dealt with no other coupler. His task was not, broadly, to construct a coupler which would open and close automatically, but to give these features to the Janney coupler—to make it a complete and perfect device by adding to it the additional element of automatic opening. The prior art, therefore, in so far as it relates to totally different types of couplers, is not material for the reason that it furnishes little information which could be utilized by one whose sole object was the improvement of the Janney coupler. An inventor, for instance, might have succeeded in making the old link and pin coupler automatic, but this would not have taught others how to make the Janney coupler automatic.

"Janney was an inventor of more than ordinary genius. He struck out on entirely new lines, and produced a coupler so far superior to all that had gone before that it at once began its phenomenal progress toward popular favor. * * * It was not perfect. Everyone recognized this fact, but it was so much better than the old varieties, that, even with its defects, it soon supplanted them. The tide of invention at once set in the direction of the Janney coupler. Obviously, the man who could remedy its defects was to take a long forward step in the art. Browning was the first to take this step. Those engaged in practical railroading knew that in certain situations the Janney coupler was slow and dangerous. Hundreds of skilled car-builders and railroad mechanics knew of these defects; the brilliant inventor himself knew of them, but no one suggested a remedy until Browning proposed his simple plan of throwing out the hook by mechanical means.

"He is attacked on the old lines. The accusation against him is one that every inventor must meet. The moment the solution of the problem is made plain those who did not see it seek to belittle the achievement of the one who did see it by the assertion that it was so exceedingly obvious and simple as to exclude the possibility of a demand upon the inventive faculties. This will not do. An invention does not cease to be meritorious because it is simple. Many of the greatest inventions are the most simple. The test should be not whether the mechanism is simple or complex, but whether the patentee has given the world something new; whether the public is richer for his contribution to the art; whether he has produced novel and beneficial results. Invention should be determined more by an ascertainment of what the inventor has actually accomplished than by a technical analysis of the means by which the result is obtained. Measured by this rule, there can be but little doubt Browning is entitled to the rank of an inventor. He made the position of the intelligent trainman one of absolute safety."

Then as to points in the construction of Browniug's claims, the court took this liberal view, saying: "To find an invention meritorious and then defeat it by an illiberal construction is as inconsistent as it is unfair. To decide that an inventor has conferred a benefit upon mankind, and subsequently destroy his patent by a harsh construction, is condemned both by the general principles of equity and by express authority. The court should be diligent to give him the rewards of his genius and labor, and resolve doubtful points in favor of the patent."

The practice of rejecting an application upon references none of which show the applicant's invention, but which, when combined, may have all the elements of it, is dealt a well-deserved blow. Inventors' hearts have been made to ache from the policy which has allowed this practice to be carried too far. If the much-hated obvious result could be made to give way to the doctrine which would resolve doubtful points in favor of the inventor in his progress through the Patent Office, there might be encouragement for him from this learned decision, and a consequent great public good, for the whole patent system is built on that one word—ENCOURAGEMENT.

THE NATIONAL LIBRARY BUILDING.

The great edifice now nearing completion on Capitol Hill, for the permanent accommodation of the nation's books, represents a long and arduous labor of preparation, as well as of construction.

The act of Congress authorizing the construction of the National Library building was approved in 1886, and a site of ten acres was purchased (by condemnation) on the plateau near the Capitol for $585,000, being at the rate of $2.56 per square foot (including buildings thereon); work was begun on a large scale, but cut down in 1888 to smaller dimensions, with a limi-

tation of ultimate cost to $4,000,000; restored in 1889 to the original size, and the limitation of cost raised to $5,500,000, in addition to sums heretofore appropriated, thus most liberally providing for an ample and thoroughly equipped edifice, with ultimate accommodation for four and one-half millions of volumes.

The construction has gone forward uninterruptedly ever since, under the efficient charge of the Chief of Engineers of the Army, General Thomas Lincoln Casey, with Mr. Bernard R. Green, C. E., as superintendent and engineer, until the entire edifice is now finished externally, the central dome completed, the three great iron book repositories on the stack system, finished, and the work on the Reading Room, the grand staircases, galleries, and administrative departments far advanced. The entire massive building will be completed early in 1897. It is constructed after the architectural plans prepared by Smithmeyer and Pelz, with considerable modifications.

The Library building is constructed of white granite, the whitest and purest known, from the quarries at Concord, New Hampshire; but the inner courts are of Maryland granite, of a slightly darker hue, from the quarries in Baltimore County. Its dimensions are 470 by 340 feet, covering about three and one-half acres of ground, with four large inner courts one hundred and fifty feet in length by seventy-five to one hundred feet in width. The outer walls have a frontage on four streets, and this, with the spacious courts and great number of windows (nearly two thousand in all), renders it the best lighted library in the world. There are three floors, comprising a basement, level with the ground; a first story, or library floor, nineteen feet high, and a second story, which rises to the height of twenty-nine feet. The walls are sixty-nine feet high to the roof, and the apex of the dome one hundred and ninety-five feet from the ground. The order of architecture is the Italian Rennaissance, the central front and four corner pavilions being moderately projected, thus relieving the monotony of so long a facade. The solid massiveness of the granite walls is relieved not only by the numerous windows with their casings in high relief, but by foliated carvings beneath the cornices and pediments, and sixteen ornate pillars and capitals in the central front, besides twelve additional columns in each of the corner pavilions. One marked and unique feature is, that upon the keystones of thirty three of the window arches on the four sides of the edifice are carved thirty-three human heads, types of so many races of men, the models made from drawings from the National Museum. These, being sculptured in the solid granite, are strong end effective decorations, taking the place of the hideous monsters and gargoyles so common in old European architecture, and serving as an object lesson in ethnology as well as in the art of portraiture. The central pavilion on the west front is further enriched, just below the roof, by four colossal figures, each representing Atlas, and is surmounted by a pediment with two sculptured American eagles as the center of an emblematic group in granite. The massive front staircase, with its fine granite balustrade, which forms the approach to the building, has underneath it a heavily arched porte-cochere for carriage entrance. The edifice is topped by a carved balustrade running all around the building. Over the arches of the three entrance doors are carved three spandrels, in relief, each representing two female figures emblematic of Art, Science, and Literature. The base or lower story of the building is in rusticated or rock-faced stone. At the corners of all the pavilions the granite is relieved by verniculated work, while the walls of the whole edifice in its upper stories are of smooth bush-hammered granite. The roofing is throughout of sheet copper. The dome is gilded by a thick coating of gold leaf, twenty-three carats fine, costing about $3,800, a much more permanent as well as economical finish than painting, which must be frequently renewed.

The cresting of the dome above the lantern terminates in a gilded finial, representing the torch of science, ever burning.

From the Art Gallery and the lantern of the dome a wide and noble view is obtained of the city of Washington, the river Potomac, and the surrounding heights in Maryland and Virginia.

The pumps, coal vaults, and steam boilers are in a separate building, eighty feet removed in the rear of the Library, and under ground, thus avoiding the many nuisances of noise, dust, heat, and odors which are inseparable from such adjuncts when placed in the basement of a building.

The central feature of the interior is the Read-Room, an octagonal or nearly circular hall, one hundred feet in diameter and one hundred and twenty-five feet high, lighted by eight large semi-circular windows, thirty-two feet wide. This is designed to seat two hundred and fifty readers, furnishing each a desk with four feet of room to work in, and sufficiently isolated from his neighbors by light screens or curtains. The desk of the Superintendent and his assistants will be centralized within the railing, commanding a view of every part of the Reading Room, to which there will be no admission of the sight-seeing public, who will be gratified in their curiosity to behold the Reading Room by entrance to the corridors in the gallery above, whence they can have even a better view, without disturbance of any kind to the readers below. The interior walls of the Reading Room are enriched with light-colored variegated marbles, which, while highly ornate, are harmonious in tone and color. The eight massive pillars, which rise forty feet to the concave ceiling, are of dark chocolate Tennessee marble at the base, surmounted by two shades of lighter Numidian marble, and crowned by statues of heroic size. The walls of the Reading Room are adorned with light Siena marble, with numerous arches and balustrades, rising to the height of the upper gallery, and presenting to the eye a rich and beautiful effect. There are twenty-four noble arches on the Library floor, intercalated with pilasters and architraves carved in classic sculpture, and above these, on the gallery floors, rise fifty-three more arches in continuous succession, surmounted by a running balustrade reaching all around the reading hall. All these architectural effects are embodied in the superb marbles of Siena, whose soft and warm and mellow lights and shades are a pleasure to behold.

Next to the Reading Room there opens out on either side an extensive book magazine, or repository, filled with cases of iron, consisting of nine tiers or floors, rising sixty-five feet high to the roof. Each tier of shelves is only seven feet in height, rendering it easy to reach the topmost books without steps of any kind; and the space between the rows of shelves is three and one-half feet, being ample for all purposes of transit for books and attendants. All the floors of the stack rooms are of white marble. The shelves are constructed of bars of rolled steel, treated by the Bower-Barff process, with a coating of magnetic oxide, which renders them as smooth as glass, and they are so spaced as to afford ample ventilation for the books and prevent any accumulation of dust. These shelves are adjustable to any height, by a rapid movement, for octavos, quartos, folios, or any size desired. These book stacks are lighted by large windows of solid plate glass, without sash, each window being thus a single plate. The grand courts into which they look on both sides are lined from ground to roof with enameled brick of the color of ivory or porcelain, and the many windows (two hundred on each side) are constantly pouring a flood of light into each stack in which the books are shelved. Each stack has a shelving capacity of eight hundred thousand volumes. Those natural enemies of books, damp, dust, heat, and smoke or gas exhalations, are all guarded against in storing the books of this Library.

The remaining floor space of the first story is devoted to Copyright Record rooms, a Librarian's office, newspapers and periodicals, committee rooms, lecture hall, and private reading rooms for Congress and special students.

The Smithsonian Scientific Library, very extensive and valuable, will also be arranged on the main floor, and one of the corner pavilions will be devoted to the Toner collection of books, presented to the Government by a public-spirited physician of Washington.

In the basement will be located a bookbindery, apartments for unbound books, periodicals, and pamphlets, and rooms for packing and unpacking books, and for storage.

The second floor contains an Art Gallery, measuring 217 by 35 feet, with a glass roof, for the exhibition of works of graphic art, of which many hundreds of thousands have been acquired by copyright, many of them the finest engravings, and affording an instructive exhibit of the arts of design. This Art Hall will be constantly open to visitors, and the students of art in Washington, as well as the scholars in public schools and other institutions, will enjoy the benefit of a classified series of works of illustrative art, of great extent and value. Another hall of equal size will be used as a map room, the Library already possessing over fifteen thousand maps, and the collection constantly growing.

In the attic a restaurant and kitchen will be provided for the service of Library attendants and the reading public.

On the various floors, lifts for the carriage of books and seven elevators for passengers are distributed, and time-saving machinery, both vertical and horizontal, for the quick transmission of books from point to point and from the Library to the Capitol, will be supplied. The latter facility will be reached through an underground tunnel between the two buildings. The book capacity of the parts of the Library already finished is about one million eight hundred thousand volumes. If all the space on each floor not at present to be used were to be fitted up for the storage of books, the building would hold four million five hundred thousand volumes. Moreover, posterity may build its annexes in the spacious courts, to contain one to two millions more, without any disturbance of the uses or architectural symmetry of the present edifice. When it is known that the largest existing library, that of France, numbers only two and a quarter millions of volumes, it will be seen how extensive is the provision for future growth—estimated to be ample for a century and a half to come.

The area of the Library floor and connecting rooms is about one hundred and eleven thousand square feet, while the ground area of the British Museum Building in London is a little more than ninety thousand square feet. The area of the building for the State, War, and Navy Departments is ninety-two thousand, and that of the Capitol one hundred and fifty-two thousand square feet. The aggregate cost of the Library edifice (nearly six millions of dollars) is about one-half that expended upon the great Department building referred to. The total floor space embraced in the Library building, excluding the cellar, is three hundred and twenty-seven thousand six hundred and sixty-seven square feet, or nearly eight acres. The length of shelves already in position or provided for, placed end to end, would extend forty-three miles, or from Washington to Baltimore.

In the construction of the building there were required 400,000 cubic feet of granite, 550,000 enameled brick, 24,000 000 red brick, 3,000 tons of iron and steel, and 70,000 barrels of cement. There have been constantly employed upon the work from 150 to 300 men, besides as many more by the contractors at the quarries and elsewhere. As many as 80,000 brick have been laid in a single day. Some of the granite blocks weigh as much as eighteen tons each, or over 36 000 pounds in a single stone.

On the ground floor of the Library building there extend four wide corridors, one on each of the four sides, lined with finely colored marbles and vaulted in masonry overhead. The marble wainscot walls are five feet high; the piers, seven feet under the arches. The western or main entrance hall is of Italian white marble, and the western corridors of Vermont mottled blue marble, three hundred and sixty feet in length in all, followed on the north wing, two hundred and twenty feet long, by a corridor of Tennessee marble, dark red in color. On the east front the visitor may walk through nearly three hundred and sixty feet of corridor lined with Georgia marble, richly veined black and white; and finally, in the south corridor, is a long vista of beautiful red and white Champlain marble, from the Swanton quarries in Vermont.

On the Library floor above, the western corridors are adorned with pure white marble wainscotings (the stone being from Rutland, Vermont), arched above with fine frescoes and paintings,

and most pleasing to the eye. In nine circular tympanums on the walls figures of the nine Muses will appear in fresco. The great feature on this main floor, next to the Reading Room in the center, is the grand entrance hall or vestibule (*foyer*), lined throughout with fine Italian marble, highly polished. On the sides rise lofty rounded columns, with elaborately carved capitals of Corinthian design, while the heavy but graceful arches are adorned with marble rosettes, palm leaves, and foliated designs of exquisite finish and delicacy. The great height of this entrance hall, rising seventy-two feet to the skylight, with its vaulted ceiling and the grand double staircase, with its white marble balustrades leading up on each side, exhibit an architectural effect which may fitly be termed imposing. The newel posts of the stairway are enriched by beautiful festoons of leaves and flowers, and are surmounted by two bronze lamp-bearers for electric lights. The upper staircases are ornamented with twenty-six miniature marble figures by Martiny, carved in relief, representing in emblematic sculpture the various arts and sciences. This beautiful and spacious entrance hall has been described as a "vision in polished stone," and, taken in connection with the grand corridors and the richly decorated Reading Room, the Library may be pronounced the finest marble interior in America.

The central bronze entrance door is to be designed by MacMonnies, the sculptor, whose superb fountain in the Court of Honor at the Columbian World's Fair at Chicago was so much admired. The Reading Room is to be supplied with a Library clock by Flanagan, with dial three feet in diameter, set in bronze and marble of the richest color.

The statuary for the Reading Room comprises eight colossal emblematic figures representing Art, by Augustus St. Gaudens; History, by Daniel C. French; Philosophy, by B. L. Pratt; Poetry, by J. Q. A. Ward; Science, by John Donoghue; Law, by Paul W. Bartlett; Commerce, by John Flanagan, and Religion, by Theodore Baur. Two representative men for each subject are cast in bronze statues of heroic size, to be arranged in groups around the galleries of the rotunda. Philosophy is represented by Plato and Lord Bacon; History, by Herodotus and Gibbon; Poetry, by Homer and Shakespeare; Art (embracing painting, sculpture, and music), by Michael Angelo and Beethoven; Science, by Newton and Henry; Law, by Solon and Kent; Commerce, by Columbus and Fulton, and Religion, by Moses and St. Paul.

Besides these sixteen full-length bronze statues, there are nine colossal busts, carved in granite, for the central front of the facade, over the pediments, and in the circular windows above the grand entrance. These busts represent Demosthenes, Dante, Scott (by Adams), Irving, Hawthorne, Emerson (by Hartley), Franklin, Macauley, and Goethe) by Ruchstuhl).

All the sculptured decorations are executed by competent artists, selected by three members of the National Society of Sculptors.

Among the sculptors whose designs are to be used (including contributions by the artists before named) are C. H. Nichaus, George E. Bissell, Louis St. Gaudens, John T. Boyle, C. E. Dallin, F. W. McMonnies, Olin L. Warner, and George Barnard.

Besides the sculptured figures and emblematic designs, there will be a considerable number of mural paintings, to fill large panels in the upper halls, corridors, and Congressional Reading Room. The crown of the dome will be decorated with an allegorical group in fresco, and wherever extensive spaces of plain wall-surface exist they will be tinted in fresco or adorned with designs appropriate to literature, science, history or art.

Among the artists whose designs contribute to the mural decorations are Kenyon Cox, William L. Dodge, George W. Maynard, Carl Gutherz, Edwin H. Blashfield, Charles S. Pearce, John W. Alexander, Elihu Vedder, Walter McEwen, and Edward Simmons.

Mosaic work in panels or mantels is designed by A. H. Thayer and F. Dielman; two bronze doors and designs in marble by Olin L. Warner; the bronze figures of the fountain by George Barnard, and other figures in bronze by Philip Martiny. The numerous and highly decorative features in stucco-work and other interior finish were executed from designs by Edward P. Casey, architect.

The hollow concave of the dome is enriched with ornamental stucco-work, in which figures, in high relief, of cherubs, vases, birds, rosettes, griffins, flowers, and geometrical designs are harmoniously distributed, the whole forming a rich composite effect from the point of view below.

This edifice has been denominated "a book palace," and perhaps the nation can well afford to own a palace for its books, since the structure is not for the present generation alone, but for the ever growing requirement of ages to come. It certainly combines, in a degree not hitherto reached in a government library, the requisites of great capacity, economy of storage, abundant light, good ventilation, convenient access, and arrangements for prompt and economic service to readers. Add to this, that its design and style of construction appear to satisfy the two great ends of architecture—use and beauty—and it may fairly be claimed that when completed it will be more than worth what it cost.

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Journals of Continental Congress, Folwell's ed., Vol. XI.
Hamilton (Alexander) Works, Vols. 4, 5, 6.
Trial of John H. Surratt, Vol. 1.
Index Catalogue of Surgeon-General's Library, Vols. 4, 5, 6.
Report of the Silver Commission, 2 Vols. or Vol. 2.
Washington, D. C., Directory, 1827, 1834.
Jefferson, Works, Vols. 1, 2, 4, 9,
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Hamilton, History of the U. S., Vol. 7,
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" " Freeman's Chancery, 1 vol.
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" " vol. 35.
Marvin Legal Bibliography, 1847.
North Carolina Reports, vols. 82, 83.
Northeastern Reporter, vol. 34.
New Hampshire Reporter, vols. 29, 45, 61.
Northwestern Reporter, vols. 15, 18 to 24.
Ohio Reports, 70 vols.
Pennsylvania Supreme Court Reports, 64 vols.
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" " Health, 2 vols.
Wallace, The Reporters, 4th edition, 1882.
Warren Law Study, 1870.
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West Virginia Reports, 39 vols.
Whitman Patent Cases.
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List of Late Books, Documents, etc., issued by Congress and the various Departments of the Government. This is intended to be a description of only the more important of such publications.

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1695 ——*Foreign Markets.* Bull. 6. The World's Markets for American Products. 90 pages, .20

1696 ——*Ornithology and Mammalogy.* Bull. No. 6. The Common Crow of the United States; insect feed, etc.; 98 pp.; 1 plate, .25

1697 ——*Ornithology and Mammalogy.* North American Fauna, No. 10; 118 pages, 12 plates, .60

This is a small insectivore of the genus *sorex;* they are long-tailed and sharp-nosed, and Dr. Merriam has scientifically pictured their masticating apparatus.

1698 ——*Same.* Preliminary Report on the Food of Woodpeckers by F. E. S. Beal. The Tongues of Woodpeckers by F. A. Lucas; 44 pp., 3 plates, .25

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1700 ——Report of the Chief of the Weather Bureau, 1894. Results of Meteorological Observations, 4°, .50

1701 **American Ephemeris and Nautical Almanac,** 1896, paper 50c; cloth, $1.00

1702 **Army Regulations (U. S.).** Adopted and issued in 1895, by order of Secretary of War, with a comprehensive index; 8°, cloth, 303 pp., 1.00

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1703 **Artillery Circular** 1, series of 1893. Course of instruction for artillery gunners. Modern Guns and Mortars adopted in the United States land service, their carriages, projectiles, fuses, and sights; 4°, paper, 98 illustrations; 1895, 2.00

1704 **Attorney General of the U. S** Annual Report for 1895; 247 pp., .50

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Contains: Trade in Japan; industries of Japan; American trade opportunities in Venezuela; South Wales tin plate trade; ramie spinning machinery; electric plow in Germany, etc.

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Contains: American furniture for Egypt; horseless carriages in France; American shoes in Ireland; forestry laws in Europe; exports declared for the United States for the quarter ending June 30, 1895. This shows that we imported $45,233,001.19, while in the same quarter of the preceding year we imported $25,587,609.23, an increase for the quarter of $19,645,391 96, or about $80,000,000.00 per year.

1714 ——*Same.* December, 1895; No. 183, .25

Contains: Naval exhibition at Kiel; Yucatan resources, commerce, etc.; wheat in Argentine Republic and its transportation; Austria-Hungary trade, products, etc.; rural loan associations in Germany; real estate mortgages in Russia.

1715 ——*Special Vol. XII.*

1716 ——**Highways of Commerce.** The ocean lines, railways, canals, and other trade routes of foreign countries; 8°, paper; 763 pp., several maps showing trade routes, 1.50

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When made into one volume this entertaining primer is 16 inches thick, and it cost enough to build a torpedo boat for use next summer when our British neighbors will send us greetings in the way of submarine explosives. It just shows how willing Congress is to spend money for things wanted by few.

1736 **West Point.** Annual report of board of visitors to the U. S. Military Academy for 1895. [hd55a54] .25

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PATENT PRACTICE.

[Edited by HUGH M. STERLING, Attorney, Washington, D. C.]

AN UNPUBLISHED DECISION.—The following recent Commissioner's decision will settle all doubt as to the present-day policy of the Patent Office relative to the right of an Examiner to review his action at any time and for any reason. It is important, since the facts of the case presented are extreme, and the hardship caused applicant none can deny; but, notwithstanding the flagrant injustice of the case, the effect of this decision is to say with a final emphasis that as long as the Examiner can act at all, and that is any time before a patent is granted, the exercise of his judgis wholly arbitrary or may be so; that he is not bound by any of his acts, nor is the office, as an office, bound by its acts or to have any reliance placed therein. He who in good faith takes the determinations of the office as a finality does so at his own risk, as this decision will show.

The broad ground of the ruling may be very wise, but it certainly seems that there is inherent in the very nature of the Commissioner's authority a power to relieve against admitted hardships that can be exercised without impairing the technical rules of the office. This is another instance of that legal paradox, *a right without a remedy*.

Following is a full text of the decision:

"This is a petition taken from the action of the Examiner rejecting two of the claims. The record shows that certain claims were allowed and that the application was involved in an interference in which applicant was successful. Meantime the case had been transferred to another division and was allowed by the present Examiner. Subsequently applicant asked that the case be withdrawn from issue for the purpose of inserting the claims forming the subject-matter of the interference issue, and this request was granted. The Examiner then rejected two of the claims upon a certain patent of record in the case. Applicant contends that as the application has been twice allowed, once by the present Examiner, and that as no new references have been cited, it is inequitable that his claims should now be rejected The Examiner's position is that he is not bound by the acts of a former Examiner or by his own acts, and that it was his duty to reject the claims in question if he did not consider them patentable.

"Technically the Examiner was right and as the question is one that involved the merits, it is not proper for me to review the Examiner's action at the present time. The petition is therefore dismissed." Ex parte R. B. Williams, Mar. 26, 1896.

The trend of the authorities seem to show conclusively a rigid respect for such actions as have once reached a formal determination. "An Examiner is not obliged to adhere to a favorable conclusion which his predecessors formed or expressed in regard to the admission of certain matter into a particular application, unless such expression took the form of a favorable judgment." Ex parte Buell, 26 O. G., 437.

"It is not until the Examiner signs the file-wrapper and forwards the case to the Issue Division that he can be considered as having rendered a favorable judgment upon it. Ex parte Starr, C. D., 1879. See also Frederick and Burns, 40 O. G., 691; and Rule, 95 U. S. P. O. Rules of Practice.

INTERFERENCE.—Reduction to Practice—Diligence.—Of two inventors the one, who was first to conceive the invention and was using reasonable diligence in adapting and perfecting the same at the time of the other's conception, must prevail, although he failed to reduce to practice until after the one second to conceive had filed his application for patent: Court of Appeals of the District of Columbia, in Yates *v.* Hudson, decided Feb. 18, 1896.

TWO APPLICATIONS — INVOLVING GENERIC AND SPECIFIC INVENTION. Delay in Patent Office—Validity.—When a prior applicatiou for a generic invention has been delayed in the Patent Office without the fault of the applicant, the grant of a subsequent patent for a specific, distinct, and separate improvement upon the principal invention will not invalidate a patent subsequently issued upon the original application. National Machine Co. *v.* Wheeler and Wilson Mfg. Co.—U. S. Circuit-District of Connecicut. The same as held in Miller *v.* Eagle Mfg. Co., and Thomson-Houston Electric Co. *v.* Winchester Avenue R. R. Co.

SOME WESLEY PAPERS.

Charles Wesley and the War of Independence—Interesting Discovery in London.

Diagonally opposite the famous Bunhill Cemetery stands a plain brick building tenanted by the Wesleyan Conference. Within its walls are stored the archives pertaining to Methodism from the date, May 24, 1738, when Methodism, as history knows it, was born. The vaults of the building are choked with a mass of documents, letters, and unpublished sermons. It has remained for the Rev. Charles H. Kelly, secretary to the Wesleyan Conference, to have made a most interesting literary discovery among this accumulation during the past few weeks.

A short time ago Mr. Kelly had occasion to visit the vaults in order to oversee some slight repairs which were in progress. These involved the shifting of a number of old volumes and the emptying of a cupboard long disused. By accident one of the books was opened, and, to his surprise, was found to contain numerous manuscripts of poems and sermons which had been written in a clear and legible hand and then bound. Something in the handwriting struck him as being familiar. In the investigation which quickly followed thirteen more volumes were unearthed. These on being opened were likewise found to contain manuscripts, and amongst them were many hitherto unknown works of Charles Wesley.

Nor was this all. In the above mentioned cupboard, a large bundle, wrapped in paper discolored by age and dampness, was found. This also contained manuscript poems of Charles Wesley, and, what was more interesting, the subject

of the latter were the reverend author's diatribes against the American colonists for the war of independence they were then waging.

It is, of course, well known that Charles Wesley was a Tory of the most pronounced type. Unlike his brother John, who had written an open letter to Lord North, protesting against the "carrying on of a war against a brave people," Charles, built in narrow mould, could see nothing that the colonists deserved for their rebellion but the awful wrath of God. It is surmised that this bundle of poems is part of the material which was sent to the Rev. Thomas Jackson, when he was preparing his "Life of the Brothers Wesley." Most of these newly found poems have never been published, although the number of books of poetry published by the brothers separately, or in conjunction, is sixty-three.

Prominent among these unpublished poems is one written in 1780, and entitled "American Independence." As one reads this poem, which is of great length, it is difficult to imagine from its metaphor and metre that it was composed by the same man who also penned the immortal and exquisite lyric, "Jesus, Lover of My Soul." The first two verses are as follows:

I.

Where is old England's glory fled,
Which shone so bright in ages past?
Virtue, with our forefathers died,
And public faith has breathed its last.
Now men who falsified their trust
Have laid our houses in the dust.

II.

Our rulers havs to rebels sued
And given us up into their hands;
Rapacious, profligate and lewd,
Obedient to our foes' commands.
They serve our cause with frantic zeal—
Factors of France and tools of Hell.

Another written in 1783 has for its title subject "The Testimony of the American Loyalists." Still another seems to have been inspired at some stage of the war by the declaration of Lord Carleton, "that the conquest of America by fire and sword is not to be accomplished."

I.

We never can by fire and sword
The fierce American subdue,
If we our general's steps pursue.
Against his friends his sword is turned,
He spoils and plunders them and burns.

II.

Such leaders never can aspire
Rebels to quell with sword and fire;
But without fire—another can accomplish,
Who truth and righteousness approves,
And more than gold his country loves.

III.

A man for this great end designed
We now at last expect to find,
By providential love bestowed,
Whose object is Britannia's good—
Britannia's peace his only aim—
And Carleton is the patriot's name.

One of the newly-discovered volumes is especially interesting by reason of the two manuscript sermons which it contains. One of these was preacheo before the students of Oxford University; the other was written while the preacher was in America. The preface of the latter is thus inscribed:

"Written on board ye London galley, Captain Judiview, between Charlestown and Boston, September, 1736.

It also appears from these old volumes that Charles Wesley wrote many of his sermons in shorthand, employing for this purpose the old system invented by Dr. John Byron, of Manchester, somewhere about 1731. Among other relics of the brothers Wesley preserved at the rooms of the Wesleyan Conference is John Wesley's note-book when a student at Lincoln College, Oxford. This contains the notes of scriptural reference which he used in preparing his exhortation to the Holy Club, of which he was one of the original founders while in college.

CHARLES SHELDON WELLS.

LITERARY NOMS DE PLUME.

Sir Walter Scott's little known "Tales of My Landlord" was published under the curious nom de plume, "Jedediah Cleishbotham."

Henry W. Longfellow once used a pen name. It was prefixed to his "History of Newbury," and he chose "Joshua Coffin" for the purpose.

J. Fenimore Cooper began to write under the pen name of "A Travelling Bachelor." His travels and social condition probably inspired the selection.

John Ruskin published his early writings under the pen name, "Graduate of Oxford," the selection being obviously influenced by his place of education.

"Josh Billings" was as well known by his assumed name as Eli Perkins by his, and generally passed by no other.

"Eli Perkins" is hardly known to the world by any other name. Even when introduced in society it was as Eli Perkins and not as M. D. Landon, his real name.

Oliver Goldsmith published his "Citizen of the World" under the name of a "Chinese Philosopher." Much to his annoyance, the pen name struck the fancy of the humorists of his acquaintance, and for a time he was called nothing else. On one occasion a visitor to the club of which he was a habitue inquired of a gentleman in Goldsmith's hearing if the Goldsmith he had read so much about was really a Chinaman.—St. Louis Globe-Democrat.

List of Late Books, Documents, etc., issued by Congress and the various Departments of the Government. This is intended to be a description of only the more important of such publications. Express or postal charges extra.

1737 **Agriculture.** Alfalfa, or Lucern, by J. G. Smith, 23 pages (Farmers' Bulletin 31, Div. of Astrology). .15

1738 ———Barnyard Manure, by W. H. Beale; 8vo, 32 pages (Farmers' Bulletin 21, Office of Experiment Stations). .20

1739 ———Cornstalk Disease and Rabies in Cattle, an investigation into the nature, cause, and means of preventing the cornstalk disease of cattle, etc., by V. A. Moore (Bulletin 10, Bureau of Animal Industry). .—

1740 ———Economic Designing of Timber Trestle Bridges, by A. L. Johnson; 8vo, 57 pages. .25

1741 ———Experiment Station Record, Vol. 7, No. 5; 8vo, pages 343-434. .35

1742 ———Extension of Markets for American Food-stuffs; 8vo, 8 pages (Circular 7, Section of Foreign Markets). .15

1743 ———Feeding of Farm Animals, by E. W. Allen; 8vo, 32 pages (Farmers' Bulletin 22, Office of Experiment Stations). .25

1744 ———Foods: nutritive value and cost, by W. O. Atwater; 8vo, 32 pages, 2 charts, (Farmers' Bulletin 23, Office of Experiment Stations). .25

1745 Hog Cholera and Swine Plague, by Dr. D. E. Salmon; 8vo, 16 pages (Farmers' Bulletin 24, Bureau of Animal Industry). .20

1746 ———Investigations Concerning Infectious Diseases among Poultry, by Theobald Smith and V. A. Moore; 8vo, 90 pages, 6 plates (Bulletin 8, Bureau of Animal Industry). .50

1747 ———Jack Rabbits of the United States, by T. S. Palmer; 8vo, 84 pages, plates (Bulletin 8, Division of Ornithology). .50

1748 ———List of Publications of U. S. Department of Agriculture, from 1841 to June 80, 1895; 8vo, 76 pages (Bulletin 9, Library). .25

1749 ———Meats: composition and cooking, by Charles D. Woods; 29 pages, charts (Farmers' Bulletin 24, Office of Experiment Stations). .25

1750 ———Methods of Analysis Adopted by the Association of Official Agricultural Chemists, Sept. 5-7, 1895; 8vo, 84 pages (Bulletin 46, Division of Chemistry). .50

1751 ———Monthly Crop Report, December, 1895, to which are appended transportation rates, with railroad and transportation statistics; 8vo, 36 pages. .25

1752 ——Peach Growing for Market, by Erwin F. Smith; 8vo, 23 pages (Farmers' Bulletin 33, Division of Vegetable Physiology and Pathology). .25

1753 ——Souring of Milk and Other Changes in Milk Products; 8vo, 23 pages (Farmers' Bulletin 29, Office of Experiment Stations). .20

1754 ——Sweet Potatoes: culture and uses, by J. F. Duggar; 8vo, 30 pages (Farmers' Bulletin 26, Office of Experiment Stations). .25

1755 ——Arbor day, its history and observance, by N. H Egleston; 8vo, 80 pages, unbound. .10

1756 Army Register (official) for 1896; 8vo, 365 pages. 1.00

1757 Census. Report on the Statistics of Agriculture, Agriculture by Irrigation, and Statistics of Fisheries in the U. S. at the 11th Census, 1890; large 4to, 606, [illegible] and 37 pages, cloth, plates. 2.50

1758 ——Report on the Population of the U. S. at the 11th Census, 1890, Part I; 4[illegible], ccxiii and 968 pages, maps, cloth. 1.50

1759 ——Report on Manufacturing Industries in the U. S. at the 11th Census, 1890, Part III, Selected Industries; 4to, 725 pages. 1.00

Contents: Textiles; electrical industries in N. Y. State; chemicals and allied products; glass; coke; refining of petroleum; iron and steel manufacture; wrought iron and steel pipe; clay products; ship building; salt; forest industries; newspapers and periodicals; gas.

1760 Check-List of Congressional Documents from the 1st to the 53d Congress, and various miscellaneous publications of the U. S. Government Departments; 8vo, 222 pages; postpaid, .50

This is a valuable and handy reference list of the most important Government publications, and will be found useful by booksellers or any one interested in such publications. Address W. H. Lowdermilk & Co., 1424 and 1426 F street, Washington, D. C.

1761 Congressional Directory, 1st session, 54th Congress; contains list of Senators and Representatives, Cabinet Officers, with a biographical sketch of each one; committees of both Houses, officials of all the Departments, foreign diplomats and consuls, and much other valuable matter; 8vo. .50

1761*a* Consular Reports, January, 1896, No. 184; 136 pages. .25

Exports declared for the United States; horticulture at Ghent; American coal for Belgium; a new electrical current rectifier; the four new treaty ports of China; labor and wages in China; railroad from Tientsin to Shan-hai-Kuan; Venezuela commerce and manufactures.

1761*b* ——*Same.* February, 1896, No. 185. .25

Free port of Hamburg; free port of Bremen; free port of Copenhagen; slag cement in Germany; Germany's commerce in case of war; currant trade of Greece.

1761*c* ——*Same.* March, 1896, No. 186. .25

Mushroom industry in France; cotton mills of Japan; American trade with Spain and Spanish America; Spanish industries; olive tree and olive oil in Tuscany; the port of Nantes; sugar in Queensland; Roentgen's discovery in photography; Isthmus of Panama traffic.

1762 Cripple Creek. Geology and mining industries of the Cripple Creek district, Colorado, by Whitman Cross and R. A. F. Penrose, Jr.; imp. 8vo, 209 pages, plates and maps. 2.00

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LITERATURE BOILED DOWN.

Smallest Book in the World less than an Inch long.

The smallest book in the world is precisely five-eighths of an inch long, seven-sixteenths of an inch wide and three-eighths of an inch thick. It contains 205 pages of the very finest type imaginable. The point of a pin would cover a single letter, and, in fact, a magnifying glass is necessary for anything like reading.

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These letters were all specially cast for printing of this book; special ink and paper had to be used, and press work required the greatest care at each impression. The book does not weigh more than a quarter of an ounce. The price is $7.50, so it is actually worth more than its weight in gold.

They must have plenty of time to waste in Italy, for this book was printed at Padua, at the press of Salman, who must have had a little leisure himself to devise such a book. There are some persons who would travel many miles and spend many dollars for such a book—but there are others, and they want books which they can read.—*New York Journal.*

In the introduction to an article on Kipling's works, an Edinburgh Review writer classifies books from a literary point of view as follows:

1. Books containing mere records of material facts, valuable only for their accuracy, without regard to form or expression.	Not literature.
2. Books containing records of facts of general and permanent human interest—history, observation of life, etc., either drawn up with some regard to form, or pervaded by interest of expression.	Outer circle of literature.
3. (a) Books dealing with fact or ideas of general and permanent human interest, in which form and expression are essential qualities; and (b) books dealing with subjects of little inherent interest but which are remarkable for perfection of form and expression.	Inner circle of literature.

This is a good classification, penetrative, acute, scholarly. There is such a mass of books produced nowadays, and

not a great deal of literature. Although Kipling himself is in the " royal succession of English poets," much of his own work belongs in the first-named place, and plenty of it in the second. And among our contemporaries how few are giving the world books showing that regard for "perfection of form and expression" which gives a work its "chance to live in the kingdom of the inner circle of literature." It is a day when popular attention is much occupied with thousands of volumes written and printed in haste to be forgotten at leisure.—*Boston Transcript.*

The pitfalls and difficulties that beset the translator of technical terms are well known, but a record has been made in connection with "All the World's Fighting Ships," the new naval annual in four languages. In this work a translator encountering the words "this ship has very raking funnels" produced a sentence that, translated back into English, reads: "this ship has most *obscene*-looking funnels." A dictionary is a useful thing, but it is not omnipotent.—*The Publishers Circular.*

WHO GOT THE FIRST PATENT?

The statement in the Post that Miss Mary Kies of South Killingly was probably the recipient of the first patent ever granted in the United States, having received a patent in 1809 for weaving straw with a thread, brought out a report of a still earlier patent which was printed last night concerning a patent granted to Ira Ives of Bristol for a wooden faucet for drawing liquor from casks, on April 14, 1808. These are old records and are very interesting to people in Connecticut.

But now comes a claim to a much older grant. Otis A. Smith, manufacturer of fire-arms at Rockfall, is in direct line of descent from Joseph Jincks of Lynn, Mass., who is claimed to be the first recorded inventor in America. In 1655 he was granted a patent for an improved scythe. He also made the first castings in this country, and in 1652 made the dies for the famous "Pine Tree" shillings. In 1654 Mr. Jincks made for the city of Boston the first fire engine in America, and his name is also associated with other inventions of that time. This jump of 153 years leaves the first-mentioned inventors far behind in the race for first honors.

But history records the fact that in 1641 the General Court of Massachusetts granted a ten years' patent to Samuel Winslow for a process of making salt. Patents were granted in England before that under the common law, but it was in 1790 the first United States patent law was passed. The colonies of Massachusetts and Connecticut were the first to introduce the English system in this country.—*Hartford Post.*

THE BOOKBINDERS' ART.

Sumptuous Covers have often saved valuable Volumes.

In the many wars which devastated the earth, the conquerors often ruthlessly destroyed the libraries of the vanquished; and, where volumes were saved, it was due to the richness of the bindings. The Florentines destroyed the books of the Medici; the precious treasures of the Vatican perished at the sack of Rome by the Constable de Bourbon; but in many instances the richness and beauty of the decoration saved from destruction volumes which now enrich the national collections of the world. Today in the auction marts of Europe books realize enormous prices on account of their binding. Volumes which are by no means unique or extremely rare, if offered for sale with a binding executed for Grolier, Canevari or from the workshops of Du Suel or Le Gascon, will excite among wealthy collectors, "these Tantaluses who can never quench their thirst," a fierce competition, and realize for their owners princely sums. A copy of La Fontaine's "Contes et Nouvelles en Vers," bound by Derome for Madame de Pompadour, realized 17,000 francs. Of this sum the purchaser paid at least 16,000 francs for the binding. "In some respects," wrote the gentle Elia, "the better a book is, the less it demands from binding. Field-

ing, Smollett, Sterne, and all that class of perpetually self-reproductive volumes —Great Nature's Stereotypes—we see them individually perish with less regret, because we know the copies of them to be eterne. But where a book is at once both good and rare—where the individual is almost the species, and when that perishes

"We know not where is that Promethean torch
That can its light relumine'—

such a book, for instance, as the life of the Duke of Newcastle by his duchess—no casket is rich enough, no casing sufficiently durable, to honor and keep safe such a jewel".—*Pall Mall Magazine.*

THE VAN BUREN HOMESTEAD.

On the north side of Fourteenth street, between Fifth and Sixth avenues, New York, is a large brownstone house. To the left of it is a large open garden, which is fenced off from the street by a high iron railing. In season a cow can be seen browsing beneath the neglected trees, which bear evidence of age. All around this lonesome old mansion trade hums from morn till night, and one wonders why it has been permitted to remain there, for the site is a valuable one for business purposes. It is the old story of a clouded title. The property belongs to the Springler estate, being part of the old Springler farm. In the long ago the Springlers engaged a Dutch gardner named Van Buren to look after the place, and they sailed away. Nothing was heard of them after they left this country, all traces of the family being lost. Old Van Buren lived on the property for many years, and on this ground the Van Buren family left a homestead. Martin Van Buren, who served this country as its President, was a grandson of the old Dutch gardener, and the place still retains the name of Van Buren homestead.

It is rather curious to find that the press which printed the first edition of Burns' poems is in Chicago. Its history has been told in a recent letter from a gentleman in Illinois, addressed to Mr. Morgan, Registrar, Ayr. The press, it seems, was made in Amsterdam, and is believed to have been brought to England between 1700 and 1720. It was used in various towns, and at length found its way to Kilmarnock, where it was employed on the first edition of Burns' poems in 1786. After passing through other hands, it was taken out to Chicago by a Scotch dominie, named Reagan, who for many years was editor and proprietor of the *Elmwood Messenger*. At Regan's death it came into the possession of the Fergus Printing Co., who now hold it.

List of late Books, Documents, etc., issued by Congress and the various Departments of the Government. This is intended to be a description of only the more important of such publications. Express or postal charges extra. Address W. H. LOWDERMILK & Co., Washington, D. C.

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2152 ——— Proceedings of the Eleventh annual Convention of Agriculture Colleges and Experiment Stations, July 13-15, 1897, 8vo, 99 pages, .25
2153 ——— The electrical method of moisture determination in soils, by Frank D. Gardner, 8vo, 24 pages, .25
2154 ——— Recent laws against injurious insects in North America, with the laws relative to foul brood, 8vo, 68 pages, .25
2155 ——— The principal insect enemies of the grape, by C. L. Marlatt, 8vo, 23 pages, woodcuts (Farmers B. 70), .25
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2158 ——— Report of Capt. P. H. Ray and Lieut. W. P. Richardson on condition of affairs in the Alaska gold fields, 8vo, 14 pages (55 B S 14), .20

2159 ——— Report of the Governor of Alaska for 1897, 8vo, 44 pages, 2 maps, .50

2160 ——— Report on introduction of domestic Reindeer into Alaska, by Sheldon Jackson, 1897, 8vo, 124 pages, 23 plates, map. (55 B S 30), .75

2161 **American Historical Association.** Annual report for 1896, Vol. I, 8vo, 1313 pages, 2.50

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2162 ——— Vol. II, Ames, the proposed Amendments to the Constitution of the United States during the first century of its history, 8vo, 442 pages, 1.50

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2170 **Consular Report.** No. 208, January, 1898, 8vo, 138 pages, .35

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2172 ——— No. 210, March, 1898, 8vo, pp. 315-458, .35

Yukon gold fields; American wines in Germany; U. S. gold mine concession in Korea; Wheat crop of India; Siberian vs. U. S. Wheat; Yaqui gold fields; Railways of Brazil; Decline of French art industries; American apples for Belgium.

2173 **Cuba.** List of books relating to Cuba (including references to collected works and periodicals) in the Library of Congress, by A. P. C. Griffin, with bibliography of maps, by P. Lee Phillips, 8vo, 61 pages (55 b s 161), .40

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BOOKS CONDEMNED TO BE BURNT.

Has any bibliomaniac ever taken the pains to collect a "Fire Library"? Such a gathering of volumes would assuredly be as interesting as those collections of first editions over which the modern bookish man is so apt to lose his reason. On the score of rarity it would have a chance of being unique; but unfortunately the getting of it together would require much more time and money than the literary man in general can spare for such intellectual luxuries. In these days of boasted liberty of the press the author is practically free from all penal restraint; but in the days when human beings were burnt without compunction, it was hardly to be expected that books which gave expression to obnoxious doctrine, religious or political, would escape the fires which in many cases had been kindled for their authors. The only thing that excites our amazement is the trifling pretexts upon which books were burnt, and their writers condemned to the stake or to some other form of torture equally trying. To deny the doctrine of election; to make the Creator responsible for the sin of the world; to cast doubts on the Trinity—to do any of these things was to incur the risk of forfeiting one's life.

And there were less venial things than these which involved like perils. So late as 1619, John Williams, a London barrister, was actually hanged, drawn, and quartered, for two poems which were not even printed, having got no farther than the manuscript, which to this day exists at Cambridge. Williams had been indiscreet enough to predict the death of King James in 1621, and to send his poems secretly to His Majesty in a box; but so peculiar were men's notions of justice in those barbarous times that Williams thought himself rightly punished for his freak! Nowdays our authors would probably deem it more just to have a reviewer or two hanged than to suffer the indignity of the rope in their own persons.

Books condemned to be burnt may be classed under three heads: offenders against religion, or morals, or politics. In the good old times the supposed heterodoxy of writers in matters of dogma and faith was responsible for a much larger number of book fires than the sins of authors against the moral code. It is a curious fact that in matters of toleration, as the world grew older it became less humane as well as less sensible, until ultimately, orthodoxy was thought of greater account than any other condition of the human mind. The ancient Greeks condemned to the flames the once famous work of Protagoras, the first avowed Agnostic of whom we know, because he said the existence of a God could neither be proved nor denied. Happily Protagoras himself escaped. Could he have looked into the future he would assuredly have deemed himself fortunate in having lived before what we call the Christian era, when authors themselves came to share with their works the purifying process of fire.

Such, as everybody knows, was the calamity that befell John Huss, who, in 1415, having been taken to the Bishop's Palace to see his books burnt, was then led to the stake himself. Recantation had, of course, been offered as an alternative, but Huss nobly declined to fall down before the god Expediency. "Even supposing," said a doctor to him, "that the Council were to affirm you had only one eye when you have in reality two, it would be your duty to agree with the Council. Some might say it *would*, rather than that a valuable life should be sacrificed; but to have

yielded such a point would have been with Huss to yield up his reason. Luther's writings were all condemned to the flames by the Diet of Worms, but the Reformer himself survived their martyrdom a quarter of a century. The burning at Geneva, in 1553, of Servetus because his views on the Trinity did not agree with those of Calvin is an ugly blot on the memory of a good man. Servetus' books and manuscripts were all burnt with him, so that his works are amongst the most priceless of bibliographical treasures. His "Christianismi Restitutio" (1553) is said to be the rarest book in the world.

The case of the first translator of the English Bible is in this connection unfortunately too well known. William Tyndale, after all the trouble he had taken in turning the Scriptures into the language of his countrymen, was strangled and burnt at Antwerp, and his Bible consigned to the flames in front of old St. Paul's. When we reflect that the book which met this fiery fate is now sold in England by the million—for the Authorized Version is still practically that of Tyndale—we can only, as some one has said, stand aghast at the irony of the terrible contrast which so widely separated the laborer from his triumph. But there were worse things than even the burning of Tyndale. It was, one would think, a small offense, the advocacy of principles of toleration; but when the Jesuit De Dominus, writing in 1617, made a plea for the reunion of the Christian communities he only paved the way for his own imprisonment by the Pope. Nor was this all. De Dominus is said to have died of poison, and when his book came to be burnt by sentence of the Inquisition, his body was actually exhumed and burnt along with it. Truly, it was something to be an author in those tragic times!

Great numbers of books were burnt in the reigns of Edward VI, and Mary; but it is not till the reign of the latter that any particular volume stands out as having been maltreated in this way. It was then that, as Disraeli put it, pyramids of Protestant volumes were consigned to the flames. The "Historie of Italy," by William Thomas, is said to have been burnt by the common hangman, which was certainly a distinction at this period. One sees quite well why Thomas's book was condemned; for his unsparing exposure of the immorality of the priests shows that he must have valued freedom of speech much more than his own safety. As a matter of fact, he suffered a sadly inglorious death, having been hanged in 1554, and his head set upon London Bridge. During the reign of Elizabeth there were few cases of book-burning of any note. One instance was that of John Stubbs, who, when his right hand had been cut off for a condemned literary work, with his left hand waved his hat from his head and cried "Long live the Queen!" Elizabeth seemed on the point of marrying the Catholic Duke of Anjou, and the people feared a return of the intolerant days of Mary. Stubbs gave vigorous expression to this fear, and hence his punishment, which, by the way, was also meted out to the printer of his book. One is glad to find that, though maimed, the courageous author was not disheartened by his misfortune. He learnt to write with his left hand, and wrote so well that Lord Burleigh employed him to compose a reply to Cardinal Allen's "Modest Answer to English Persecutors."

When James I came to the throne one might have expected that the burning of books would practically cease—for was not the "British Solomon" himself an author? But no. It was the time of the burning of witches as well as of books, and Reginald Scot had published his "Discoverie of Witchcraft," which condemned in no unsparing manner this most stupidly cruel of all superstitions. James believed as firmly in witchcraft as he did in his own existence, and thus it came about that he had all the copies of Scot's book burnt that could be seized, and himself provided an antidote in that well-known work on "Demonologie," which has taken a place beside his famous "Counterblast against Tobacco." When we arrive at the time of Charles I, we find some atrocious sentences passed against authors by the Star Chamber and High Commission—sentences

which, of course, always involved the burning or suppression in some other way of the offending works. Laud seems to have been, directly or indirectly, responsible for most of these sentences, with their heavy fines and cruel mutilations, and his letters show that he thought very lightly of the severities in question.

Alexander Leighton was a Scottish divine who, in his "Syon's Plea Against the Prelacy," had been daring enough to say that bishops were of no use in God's house, and called them caterpillars, moths, and cankerworms. The strong Anti-Episcopalian feeling of the country had never been expressed so vigorously before, and the result to Leighton was a fine of £10,000, the culprit at the same time being condemned to lose his ministry, to be whipped, to be pilloried, to have his ears cut, and his nose slit, to be branded on the cheeks "S. S."—sower of sedition, and to be imprisoned for life. The sentence was actually executed, in frost and snow, making the victim, as he expresses it himself, a "theater of misery to men and angels." The case was but the forerunner of several of a like kind. The victims in general held firmly to their published opinions—as when one Bastick, in spite of fine, excommunication, and imprisonment, declared that his recantation would not take place "until Doomsday, in the afternoon." One sufferer, standing in the pillory, even thought himself "in heaven and in a state of glory and triumph!" Well for these poor knights of the pen that their consolations could rest on such a solid foundation!

With the dawn of the Revolution, and the consequent ending of the Star Chamber and Commission, it might have been supposed that a brighter morning would break for books and authors. But, as Mr. Farrer, the author of a most interesting work on the subject, says, the control of thought in reality only passed from the Monarchical to the Presbyterian party, and if authors no longer incurred the revolting cruelties of Laud's time, their works were much more freely burnt. It was during this time that intolerance rose to such a pitch that the denial of the doctrine of the Trinity was made a capital offense! Nor did the Restoration bring much relief to writers. One of the first to incur its vengeance was the author of "Paradise Lost," who disputed the divine right of kings in that masterpiece of English prose, the "Defensio Populi Anglicani." Of course, as might have been foreseen, the founding of an exhortation to virtue on an act of regicide was rather much for the House of Commons, and in 1660 came a proclamation ordering all persons in possession of the "Defensio" to deliver up their copies to be burnt by the hangman. Probably Milton would have suffered in person had he not "fled or so obscured himself" that all endeavors to apprehend him failed.

When Church and Dissent began to come into conflict in the reign of Queen Anne the Church party made themselves specially prominent in the burning of books. Defoe's "Shortest Way with Dissenters"—their extermination!—was ordered to be burnt by the hangman, and the author was sentenced to a ruinous fine, to imprisonment, and to three days of the pillory. About the same time Dr. Drake's "Historia Anglo-Scotica" was burnt in Edinburgh because the author had expressed the hope that the then meditated union of the two countries would afford the Scots "as ample a field to love and admire the generosity of the English as they had heretofore to dread their valour."

By-and-by the belief in the efficacy of book-burning began to decline, and the eighteenth century saw the hangman employed for the last time for the "punishment" of books. Reference is sometimes made to the burning of Mr. Froude's "Nemesis of Faith" at Oxford in 1844 as being the last instance of the kind; but the burning seems to have been nothing more than the hasty act of a foolish professor who disliked Mr. Froude's views, and burnt a single copy of the "Nemesis" found in the hands of a student. In our day, happily, the only fire that the author need fear is the fire of criticism—which, in its way, is sometimes unnerving enough too.—*Publishers Circular.*

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